

MINNESOTA.

Frank Hagberg, Winthrop.
John Lohn, Fosston.
Thomas M. Paine, Glencoe.
Caroline E. Smith, Morton.
W. J. Stock, Coleraine.
Edward Wilson, Kasson.
Edward Yanish, St. Paul.

OKLAHOMA.

Harry Jennings, Claremore.
Joseph M. De Lozier, Sapulpa.
Joseph V. Martin, Lone Wolf.
Calvin S. Ward, Roosevelt.

PENNSYLVANIA.

Newton S. Brittain, jr., East Stroudsburg.
Fred G. Brown, Knoxville.
Henry M. Brownback, Norristown.
Harry B. Heywood, Conshohocken.
Oscar D. Schaeffer, Nazareth.
George F. P. Wanger, Pottstown.

UTAH.

Thomas Braby, Mount Pleasant.

WEST VIRGINIA.

Luther S. Montgomery, Montgomery.
Isaac I. Riley, Spencer.
William F. Squires, Parsons.

WISCONSIN.

Alexander Archie, Waterloo.
John W. Bell, Chetek.
A. B. Chandler, Beaver Dam.
Robert Downend, Osceola.
Herbert A. Pease, Cumberland.
George A. Packard, Bayfield.
Mildred Smith, Withee.
John H. Snyder, jr., Elkhorn.
David B. Worthington, Beloit.

WITHDRAWALS.

Executive nominations withdrawn February 17, 1911.

Renaldo E. Taylor to be postmaster at Gridley, Cal.
Joseph H. Woollen to be postmaster at Mankato, Kans.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 17, 1911.

The House met at 10 o'clock a. m.
Prayer by the Chaplain, Rev. Henry N. Couden, D. D.
The Journal of the proceedings of yesterday was read and approved.

WATER FOR IRRIGATION.

Mr. REEDER. Mr. Speaker, I desire to call up the conference report on the bill (S. 6953) authorizing contracts for the disposition of waters of projects under the reclamation act, and for other purposes, and I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Kansas calls up a conference report and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. UNDERWOOD. What is the conference report?

The SPEAKER. The Clerk will report the title.

The Clerk read the title of the bill (S. 6953) authorizing contracts for the disposition of waters of projects under the reclamation act, and for other purposes.

Mr. UNDERWOOD. I will ask the gentleman from Kansas what is involved in this.

Mr. REEDER. It is to authorize contracts with outside parties, either private persons or corporations, so that they, by paying their proportionate per cent of the money required for building reservoirs and ditches, can carry the water that belongs to their land through those ditches.

Mr. UNDERWOOD. In the differences between the House and Senate is there any charge on the Treasury or any disposition of the public lands?

Mr. REEDER. There is not.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask the gentleman—

Mr. REEDER. I will ask the gentleman to listen to the statement first.

The SPEAKER. The matter is not yet before the House. Is there objection to reading the statement instead of the report?

There was no objection.

The Clerk read the statement of the House conferees, as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to Senate bill 6953, authorizing contracts for the disposition of waters of projects under the reclamation act, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying report, as to each of the amendments of the House, viz:

On amendments Nos. 1, 2, 3, 4, 5, and 6: Provide for carrying and impounding water, as proposed by the House, instead of disposing of water, as proposed by the Senate.

On amendments Nos. 7 and 8: Make verbal correction in the text of the bill.

On amendment No. 9: Provides that the use of reservoirs as well as the construction of reservoirs may be contracted for, as proposed by the House.

On amendments Nos. 10, 11, 12, and 13: Make verbal corrections in the text of the bill.

On amendment No. 14: Gives to the bill the title proposed by the House.

W. A. REEDER,
RALPH D. COLE,
W. R. SMITH,

Managers on the part of the House.

Mr. MANN. Mr. Speaker, I think we ought to have an explanation of this report.

Mr. REEDER. As it passed the Senate this bill provided for the disposition of water. The House committee held that Congress does not have the right to provide for the disposition of water; that water is appurtenant to the land, and that whoever by a proper course secures the water for his land makes the water appurtenant to that land. Therefore we changed the bill so as to provide for impounding and carrying the water, rather than for disposing of it. The Senate conferees agreed with us on every proposition. There were some changes made, however, in the phraseology and punctuation, and those are all the changes that were made in the bill as it was amended by the House.

Mr. MANN. What were the differences between the House and the Senate?

Mr. REEDER. The Senate proposed to dispose of the water. The House simply provided that when a person had secured the water for his land by the ordinary process to impound and carry the water, and that we do not have the power to dispose of the water.

Mr. MANN. This is water in a reclamation project, is it not?

Mr. REEDER. No; it is excess water in a reclamation project.

Mr. MANN. Well, it is water in a reclamation project.

Mr. REEDER. No; it is not; because if it were in a reclamation project it would be necessary for that project; but it is water that is in a stream where, after all the water necessary is used in the reclamation project, a surplus remains. In many cases there is only one good place to impound the water, and by making the dam higher and permitting these people to pay for the extra expense and making the ditch a little larger they can carry water that does not belong to the project to land that the water does belong to.

Mr. MANN. This proposes to have the Government and private parties enter into a partnership, does it not?

Mr. REEDER. Yes, sir.

Mr. MANN. And under that the Government pays part of the expense of the dam and private parties pay the rest?

Mr. REEDER. Yes; that is partly what it is intended for; but the dam is to remain entirely under Government control.

Mr. MANN. We can all imagine how well the Government is likely to have its interests protected.

Mr. REEDER. The bill provides that no water can be carried or disposed of until sufficient water is provided or reserved for the whole of the irrigation project. After that, if there is surplus water and no good place to store it, then by paying the expense necessary to make the reservoir large enough to store it and to make the ditches large enough to carry it, the outside parties can carry their water through the ditches to their own ditches.

Mr. MANN. I remember the bill as it passed the Senate, and I remember the bill as it passed the House. Just what changes have been made by the conferees in the bill as it passed the House?

Mr. REEDER. Not any.

Mr. MANN. I have read enough to see that there have been some changes.

Mr. REEDER. There have been no changes except in phraseology. The amendments are not intended to change the purpose of the bill.

Mr. MANN. What is the occasion of changing the phraseology if it does not mean anything?

Mr. REEDER. In one case there was placed an apostrophe, where if it had been placed lower down it would have been a comma, and we put it lower down. We struck out one section and inserted another section, and that same section was inserted again by the conferees with a few verbal changes. In the second amendment we struck out, in line 7, the words "to be fixed."

Mr. TAYLOR of Colorado. Will the gentleman yield?

Mr. REEDER. I would be glad to.

Mr. TAYLOR of Colorado. When the Government of the United States, in locating these reclamation projects, determines the amount of land there is to irrigate and the size of the reservoir and the size of the canal necessary to irrigate it, what is the purpose of their having excess capacity, and why should they do so?

Mr. REEDER. Because there are other lands, in small tracts, or perhaps some taken under the Carey Act, that will find plenty of water after the Government has withdrawn what it wants for the purpose of irrigating the lands under the project, but the Government has taken the only practical place to store the water. The result is that after the Government has reserved all that is necessary for their project, if private individuals wish, they can put up the money (the Government still retaining control of the dam) to enlarge the reservoir or widen the ditches, and then they can carry the surplus water which belongs to their land. Without this these lands could not be irrigated at all in some places.

Mr. TAYLOR of Colorado. Why should the Government of the United States have any right to appropriate more water than they need any more than should an individual?

Mr. REEDER. We claimed that the Government did not have any such right, and hence we provided that anyone else that claimed the water should have a right to use it under conditions provided in this bill.

Mr. TAYLOR of Colorado. Is not there danger in this proceeding of having the Government of the United States put to the expense of building irrigation work and appropriating, we may say, water for the purpose of allowing a large number of private individuals to get water at the Government expense very cheaply?

Mr. REEDER. We have provided in our amendment that the Government shall not impound or carry water for others unless there is an excess over what is needed on the lands under the project. Then the Government, having the reservoir, when others furnish the money, may increase the size of the reservoir and increase the carrying capacity of the ditches and permit those who furnish the necessary funds to use the surplus water on their own land.

Mr. TAYLOR of Colorado. Does it not strike those on the committee who have had practical experience in irrigation operations of the West that this is rather an adroit entering wedge for the purpose of the Government controlling our waters in that country?

Mr. REEDER. I am very anxious not to do anything that will invalidate or deprive the people of the full benefits of the national irrigation law. I take great pride in this law. I think it is one of the greatest movements inaugurated by Congress since I have been a Member. By means of this law homes are being made for at least 30 persons each day out of desert lands, and these citizens are placed thereby under conditions which are favorable to the development of the highest type of citizenship.

Mr. TAYLOR of Colorado. Then why not let it alone?

Mr. REEDER. I have consulted practically all of the interested people of the West to know if this could in any way disturb the working of the irrigation law, so that I not only have my own judgment but the judgment of most of the Members interested in these matters.

Mr. TAYLOR of Colorado. Has the gentleman consulted anybody from Colorado, the greatest irrigation State in the West?

Mr. REEDER. No; I do not know that I have.

Mr. TAYLOR of Colorado. It seems to me that when the gentleman talks of irrigation lands he ought to remember the Centennial State.

Mr. MANN. Will the gentleman yield further?

Mr. REEDER. Yes, sir.

Mr. MANN. It seems to me this is so important a matter that we ought to have a full understanding of it.

Mr. REEDER. It is important.

Mr. MANN. As I understand now, under the reclamation project we construct reclamation systems for the furnishing of

water directly in the first place through the Government; that this proposition is that the Government shall construct large reservoirs or dams for the purpose of impounding water which the Government has no use for in its reclamation project.

Mr. REEDER. Well, the gentleman is mistaken. It is not a provision of that kind. This is a provision—

Mr. MANN. I want to know whether I am mistaken.

Mr. REEDER. I am saying to the gentleman that my judgment is he is mistaken. The proposition is that the Government is to impound water or arrange to impound water sufficient for the lands under the project. Now, if there still remains a surplus of water, and other persons claim that water for their lands, then they must provide some method of getting that water upon their lands, and by paying the necessary expense the reservoir can be increased in size by building the dam higher and the main ditches enlarged.

Mr. MANN. Is not the very purpose of that to get more water impounded than the Government has any use for in its reclamation project?

Mr. REEDER. It is.

Mr. MANN. Is not that a very dangerous proposition? Here we have reclamation projects started. Now, the proposition is to go beyond that, and have the Government construct reclamation projects, not for the purpose of supplying water to the project, but for the purpose of supplying water to somebody else under contracts which may be made. What supervision is there over the contract?

Mr. REEDER. The Secretary of the Interior is empowered to make such contracts as he deems will make it safe for the owners of the lands to be irrigated under the project that they will have their water not only retained but impounded when they are ready to put water on their land.

Mr. MANN. Suppose there is a shortage of water in the end—who loses the water, the private parties, or the parties on the Government project?

Mr. REEDER. There is a question in my mind should such a condition arise. There is no question unless it should occur in this way, that certain units of the project were first supplied with water, then there is no question but what they would have the water first; but if the money in the irrigation fund should be short, and private individuals come in and establish a right to water and use it on their lands, and then another unit of the Government project is taken up, I am inclined to think that the next unit under the irrigation project would suffer the loss, because ownership of water is regulated by beneficial use, and if a certain amount was claimed for this project and later on it had been used by other parties, I fear that that second part of the project would suffer the shortage of water.

Mr. MANN. Let me ask the gentleman a question. Here is a project or a reservoir to supply so much water. That must be in the nature of an estimate at the best. You require so much water to furnish irrigation to the people on the land under the Government project, and propose to supply any surplus water under a contract with other people. You do not make any limitation as to the character of the contract which remains?

Mr. REEDER. Yes; we say that this contract shall reserve to the irrigation project a sufficient supply of water to water the project, and there is not as much guesswork about that as the gentleman may think. The amount of water required for the land, as well as the supply in the streams, are pretty nearly known now.

Mr. MANN. Well, there is more or less guesswork about it.

Mr. REEDER. A good deal less guesswork than more.

Mr. MANN. We have not tried irrigation projects long enough to know that. If there is a shortage of water, that is the fault of private consumers only, under the gentleman's statement, but that will depend on the contract.

Mr. REEDER. I think it also depends upon the time of the commencement of the use of the water by different users.

Mr. MANN. Does the gentleman mean to say if the Government makes a contract authorizing the use of water, that the actual use of the water depends upon the time of making the contract?

Mr. REEDER. The ownership of the water depends upon the time of commencing the use of it and their continuance of beneficial use of the same.

Mr. MANN. That is clearly not the case.

Mr. REEDER. That clearly is the case.

Mr. MANN. Does the gentleman mean to say that if you make a contract with A to furnish him so much, and then with B to furnish him so much water in case there is a shortage, the contract with B fails and A can get the water?

Mr. REEDER. Certainly.

Mr. MANN. That will depend upon the contract.

Mr. REEDER. It does not depend on the contract at all. Mr. RUCKER of Colorado. A has a priority of right.

Mr. REEDER. That is priority of right.

Mr. MANN. It depends upon the law or the contract, and there is no law governing it.

Mr. REEDER. Oh, there is a law.

Mr. MANN. What is it?

Mr. REEDER. If we contract with A to furnish water five years and he fails to use it, and at the end of four years we contract with B, and he commences and continues to use the water, A loses his right and B thus secures the first right to this water.

Mr. MANN. That depends upon the law upon the subject.

Mr. REEDER. It does not; it depends upon who makes continuous beneficial use of the water.

Mr. MANN. It absolutely must depend upon the law on the subject. While that may be governed by some State law the State law will not apply in this case where the Government provides for the making of a contract.

Mr. MONDELL. Will the gentleman yield to me?

Mr. REEDER. I will yield to the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, I want to call the attention of the gentleman from Illinois and the House to the fact that, in the first place, this conference report in no wise changes the bill as it passed the House except in matters of phraseology. No change in the purpose or intent of the bill is made.

Mr. MANN. The gentleman from Kansas a moment ago stated that the conference report in nowise changed the language of the bill as it passed the House except in phraseology or punctuation. Can the gentleman inform us in what other way it can possibly be changed except in phraseology and punctuation?

Mr. REEDER. I would like to answer that.

Mr. MONDELL. If the gentleman will allow me, the phraseology was changed very slightly to make the meaning a little clearer and does not in anywise affect the meaning and intent of the act. Then it was discovered that by inadvertence there was an error in punctuation, and the only changes were those of punctuation and such as were made to make the bill entirely clear. The conferees also struck from the bill some language that was mere surplusage and left in the bill through inadvertence.

Mr. MANN. That part I remember, the bill duplicated language, and, if the gentleman will yield, there was a wide difference between the Senate proposition and the House proposition. Now, it comes back with changes in language, and we are told that it is not intended to change the meaning. Why not answer that by telling what the difference is?

Mr. MONDELL. Well, I will say to the gentleman that it makes no essential change in the bill.

Mr. MANN. What is the purpose of doing it if it does nothing?

Mr. MONDELL. Well, for instance, in the matter of punctuation, the House bill at two points was erroneously punctuated.

Then, there were one or two places in the second section of the bill where a very slight change was made to make the language of the bill clearer, and I want to say to the gentleman the changes which had been proposed by the Senate at one time were none of them inserted in the conference report. And the bill comes back to the House substantially as it left the House.

Now, answering the gentleman's question as to what the bill does and how it can affect water rights, let me assure the gentleman it can not; that these contracts which are provided for can not affect the water right of any entryman under a reclamation project or under any unit of a reclamation project, for this reason, that when the reclamation project is inaugurated or initiated the water rights for the entire project and all units of it are filed, and the right dates from the time when the water-right application is made, provided due diligence is used in building works; so that the first rights are those under the project, and nothing can be done, nothing is contemplated in this bill, nothing that we could do could take from the project the water necessary for the irrigation of all of the lands under the project.

Mr. MANN. Does the gentleman mean we could not do it?

Mr. MONDELL. No; we could not do it, because the water rights are obtained from the State, and the water right dates from the date of application, work proceeding with reasonable diligence. So, as a matter of fact, we could not, if we were disposed to do it, which, of course, the House is not, take a water right from any land included in a project. But the first section of the bill provides that if a surplus has been provided by impounding reservoirs, as in the case of the North Platte, for instance, above the amount which will be needed for

the irrigation of all lands under the entire project, the Secretary may make contracts for the use of the surplus of the impounded water. That can in nowise or under any circumstances affect any entryman on any project, but it is a contract which is pure velvet, if I may use that sporting expression, to the Reclamation Service, in that it brings to the service an increased income without any further outlay.

Mr. MANN. Is the gentleman absolutely correct about that? The gentleman from Kansas [Mr. REEDER] stated that it contemplated constructing dams higher and at greater expense.

Mr. MONDELL. I am speaking of the first section of the bill now, and I will come to the second section later. The first section of the bill relates primarily to those works which have been constructed. As I have said, it is an income to the service which otherwise the service could not acquire, and without this law, in the case of the North Platte Dam, the additional impounded water not needed for the irrigation of the lands under the project would simply be turned into the stream and the service would receive no benefit from it. That is the first section.

Now, the second section contemplates two essentially different operations: First, that the settlers on a unit of a reclamation project who are anxious to have immediate construction and do not care to wait for the time when the service in the expenditure of its funds can build their canals may make contracts with the Reclamation Service under which they build their own works on the unit, and the contract with the service in fixing their water-right charges gives them credit for the work they have done at their own expense, and which otherwise would have to be done by the Government. To that extent it relieves the Government from expenditure.

Mr. MANN. Right there, if this contemplates the construction of a more expensive dam—

Mr. MONDELL. I have not reached that point. I am speaking now of the first class of works, the more important class of works contemplated, giving the settlers upon a unit the right to build all or a part of the works of the unit themselves, thus saving expenditure by the Government and securing credit on their water rights for the amount of their expenditure. In other words, the water-right charge would be as much less as the cost of the work they constructed bore to the entire cost.

Mr. MANN. And do I understand the gentleman that this proposes to permit the water-right users under the reclamation project itself to construct part of the work which otherwise the Government would construct?

Mr. MONDELL. That is it. That is the more important feature of the second section.

Another feature of the second section which is also important is this, and it is best illustrated perhaps by the situation at Jackson's Lake: The Reclamation Service is irrigating a large amount of land on the Snake River in Idaho, and has withdrawn for irrigation all the public lands on the Snake River that they can reach with their works, so that there is now included in the Reclamation Service in that locality quite a large area that the Government can irrigate. It so happens that by impounding the waters of the Snake River at Jackson's Lake in Wyoming an amount of water can be impounded in excess of what is needed for all of the land under all of the units of the Government projects, and this act gives the Secretary of the Interior authority to allow private parties having land to irrigate down on the river to join in defraying the cost of constructing the dam at Jackson's Lake. The additional amount contributed, of course, would make it possible to raise the dam higher and impound more water, and that would be beneficial to the Government and beneficial to the private parties without costing the Government a penny, because the additional cost of building the dam higher than the Government might find it necessary to build it would be borne by the people who are to use the additional water for the irrigation of the lands under their project.

Therefore the bill does not contemplate the expenditure of additional money by the Government, but it does contemplate a saving to the Government—first, in the first section, by receiving sums for waters which otherwise would go to waste, so far as the Government is concerned; second, by being relieved from the necessity of constructing the laterals and distributing works where the settlers want to construct them themselves, or are willing to do so; and, third, by receiving contributions from private individuals in connection with the construction of dams or ditches, raising them higher or larger in capacity than it would be necessary to do if only Government lands were to be irrigated.

Mr. MANN. Does this bill require that these contributions shall be in cash, or is it proposed that the Government out of

the reclamation funds shall advance this money and at some time get it back?

Mr. MONDELL. No; it does not.

Mr. MANN. Is there anything in the bill to prohibit that?

Mr. MONDELL. Unquestionably.

Mr. REEDER. There is nothing in the bill even to suggest it. Nothing of that kind was contemplated.

Mr. MANN. The bill authorizes the Secretary of the Interior to make contracts, and it makes no limitation with respect to them.

Mr. REEDER. It gives him no money with which to execute contracts. I would like to make a brief statement on this subject, if my friend from Wyoming [Mr. MONDELL] is through. It will take but a moment.

Mr. MONDELL. So far as I know, no one has ever imagined such a thing, and in the case that I am using as an illustration I understand the parties who are irrigating lands down on the Snake River have been ready for the last year to put up the money necessary to build the dam higher than the Government would otherwise build it.

Mr. MANN. The gentleman says that nothing is contemplated about it. When the original reclamation act was passed there was nothing of this sort imagined by anybody, and yet the first thing we have is a proposition that the Government shall enter upon the work and build the reservoirs and dams for the purpose of supplying private parties with water.

Mr. REEDER. If my friend from Wyoming [Mr. MONDELL] has finished his statement, I would like to get a moment for a word of explanation.

Mr. MONDELL. Sometimes exaggerated statements are made in matters of this kind. In this case the Government is saved expenditure, rather than subjected to an additional expenditure.

Mr. REEDER. I would like to make a further remark or two in regard to this bill. First, I wish to state that but for the purpose of providing that the Government should not undertake to dispose of the water we should have made no amendments to this bill. The next proposition is this—

Mr. TAYLOR of Colorado. Mr. Speaker, I want to ask the gentleman from Kansas [Mr. REEDER] a question.

Mr. REEDER. All right.

Mr. TAYLOR of Colorado. In the last sentence of section 2 why is this language used?

Provided, That nothing contained in this act shall be held or construed as enlarging or attempting to enlarge the right of the United States under existing laws to control the waters of any stream in any State.

Why should you put in anything that even indirectly assumes to give the United States control over our streams?

Mr. REEDER. We desired to make it clear that the Government has no right to running water.

Mr. TAYLOR of Colorado. Why did you not say so? Why did you not provide, then, that the United States shall not be construed to have any authority?

Mr. REEDER. That is what we do provide.

Mr. TAYLOR of Colorado. You say "shall not be construed to have any enlarged authority." Why do you tacitly recognize that it has any authority at all?

Mr. REEDER. We amended this bill in such a way as to allay and set aside any suspicion that anyone might entertain that the Government had the right to the water.

Mr. TAYLOR of Colorado. If you intended to do that, I must say that the language hit upon was not very happy. I do not agree with you.

Mr. REEDER. That may have been an unfortunate use of language. I believe there is danger that these men who obtain surplus water under this bill may finally obtain the sole right to water that should go to landowners under the project. Now, I answered my conscience in this matter in this way: That if all the water in the stream is used near its source to produce crops, the sooner this can be consummated the better, and each comer will likely get water in the order of his putting it to beneficial use. We can not in any way increase the amount of water, and the well-established principle in water ownership for irrigation of "first come, first served" is probably best after all, whoever gets left.

Mr. COOPER of Wisconsin. Mr. Speaker, I should like to ask the gentleman from Kansas a question. Do not the first four lines on page 4 permit the private association or corporation to charge what they think is reasonable for the carriage and delivery of the water? The private corporations fix the rate, do they not?

Mr. REEDER. No; we provide in this bill that they shall not charge anything in excess of the cost of the storage and carrying to them; but, nevertheless, when they sell their land, they will get their profit. Everybody knows they will put in

as much profit as they can get into the price they charge for the land they own.

Mr. COOPER of Wisconsin. They get this water from the Government, do they not?

Mr. REEDER. No; they do not. That is what we amended the bill to provide against. They get the Government to permit them to pay for the storage of it, and to pay the cost of the increase in the size of the ditches through which the Government carries their water.

Mr. COOPER of Wisconsin. The first four lines further say that they shall not charge in excess of the charge paid by them to the United States, except to such an extent as may be reasonably necessary to cover the carriage and delivery of said waters. The question as to what is reasonable is left to them to decide.

Mr. REEDER. In a way that is true.

Mr. COOPER of Wisconsin. Suppose they make an excess charge over and above that. Who can determine that question?

Mr. REEDER. It is not worth while to try to determine it, for this reason: When they commence to put in their lateral ditches, they are at some expense in addition to what they pay to the Government, and they will make a charge for that. Even if they should charge less than the cost for that, they are sure to make it up in the price they charge for their land anyway, and there is no way to prevent that. They will charge all that the settler will pay for the land. If they do not charge it for carrying water, they will charge it on the land.

Mr. SMITH of Texas. I think the users of the water can hold it down to a reasonable figure.

Mr. COOPER of Wisconsin. They can not if the corporation have a monopoly of the water.

Mr. REEDER. The gentleman does not understand. They have no monopoly of the water, for the reason that the water can only be made appurtenant to the land. They have a monopoly of carrying the water, unless the landowner provide another plan to carry it.

Mr. COOPER of Wisconsin. Where the water in an ordinary irrigation project is let on to land, is there not some officer somewhere or some authority that can fix the rate?

Mr. REEDER. The law fixes the rate, because it must be the cost of constructing the necessary works for impounding and delivering the water without interest. In these private projects there is no way to fix the rate. They own the land, and if they get the water at all, it is appurtenant to the land.

Mr. COOPER of Wisconsin. They would not get the water, except for this provision.

Mr. REEDER. They can get the water, but they have got to provide some way to utilize it. Now, we are simply providing for the best method for them to do this, because we have monopolized the place where the water can be cheaply impounded. That is all there is to the bill. They will charge what they can get for their land, just as the gentleman and myself would do if we owned it.

Mr. KOPP. Who determines whether they are charging what is reasonably necessary to cover the cost of carriage and delivery?

Mr. COOPER of Wisconsin. That is the exact question.

Mr. REEDER. That is determined by the man who buys the land.

Mr. KOPP. Has he any redress if he thinks they are charging him more than it is worth?

Mr. REEDER. No more redress than I would have if I tried to buy a farm from the gentleman, and I thought it was worth \$75 an acre and the gentleman thought it was worth \$100 an acre. The gentleman would own the farm, and there would be no power on earth that could compel him to sell it to me for \$75 an acre if he chose to hold it at \$100 an acre.

Mr. KOPP. Then, is not this perfect folly, if a man has no redress when they do that which the law prohibits?

Mr. REEDER. As long as they own the land to which the water is appurtenant, that can not be remedied any more than we can remedy the price of land which is held by any private person.

Mr. COOPER of Wisconsin. In the matter of railroad rates, where there is a monopoly of transportation, if the rate charged by the railroad is not reasonable, there is a commission authorized to fix rates, and the man can go before the commission or into court if necessary. Now, ought there not to be some way in which the question of the reasonableness of the charge for the water can be determined if a man wants to use it? As I understand it, this private corporation has the right to fix the rate.

Mr. REEDER. But they can not get the water unless they own the land to which the water is appurtenant.

Mr. COOPER of Wisconsin. This comes from a contract with the Secretary of the Interior, does it not?

Mr. REEDER. They could not get the water unless they own the lands.

Mr. COOPER of Wisconsin. Certainly not; but after they sold the lands it is in the hands of the private owner. This company can raise the rate at any time it pleases.

Mr. REEDER. Oh, no.

Mr. COOPER of Wisconsin. It is left to their discretion, and there is no redress for the landowner.

Mr. REEDER. No; there is no contract made for the land under irrigation unless it carries with it a delivery of the water. If the contract is made, that fixes the price. You might as well say that if I bought land of you at \$100 an acre and you gave me a deed of it, later on you could charge me more per acre. When they sell the lands they give a deed, and the deeds call not only for the land, but for the water at certain rates.

Mr. KOPP. This provides that—

No irrigation system, district, association, corporation, or individual so contracting shall make any charge for the storage or delivery of such water in excess of the charge paid to the United States, except to such extent as may be reasonably necessary to cover cost of carriage and delivery of such water through their work.

There is an absolute prohibition. Does the gentleman mean to say that when we insert an absolute prohibition and then attach no penalty to it, it is prohibited by law?

Mr. REEDER. They can not charge any more than the Government charges them for carrying the water.

Mr. KOPP. But suppose they do, what is the result?

Mr. REEDER. They can not collect it.

Mr. KOPP. Why?

Mr. REEDER. For the reason that the Government would not be justified, or the Secretary of the Interior would not permit the carrying of water under those conditions.

Mr. KOPP. But who determines whether they have charged an excess?

Mr. COOPER of Wisconsin. Who determines whether it is a reasonable price or not?

Mr. REEDER. If not determined there it would be determined by the court. But there is nothing in this proposition of the gentleman from Wisconsin. Suppose they were charged 10 cents or a dollar a miner's inch more than it cost; they are going to charge for the land and carrying the water in the private ditches enough to give them a good profit.

Mr. KOPP. That is begging the question. Suppose I have the land and I think I have been charged too much.

Mr. REEDER. But you make your contract when you buy the land. If you have made a contract for the land and paid \$25 too much, you have lost your \$25. You make your contract at the time and that includes the carrying of the water to the land.

Mr. KOPP. No matter what rate they charge, I either make the contract or I do not buy the land.

Mr. REEDER. That is the situation, and always has been. If a man owns property, he sets the price; you buy or let it alone.

In this case the owner must sell down to 160 acres or he can get no water at all for more than one 160-acre tract, and without the water the land is worthless. This makes the owner hunt a purchaser.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 10559. An act to designate St. Andrews, Fla., as a support of entry;

S. 10638. An act to authorize the Secretary of War to sell certain lands owned by the United States and situated on Dauphin Island, in Mobile County, Ala.;

S. 10756. An act granting public lands to the town of Omak, State of Washington, for public-park purposes;

S. 10591. An act to grant certain lands to the city of Trinidad, Colo.; and

S. 9113. An act fixing the salary of the collector of customs, district of Montana and Idaho.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 28406) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for

fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1912, and further insists upon its amendments numbered 48, 76, and 82, disagreed to by the House of Representatives, asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. CLAPP, Mr. McCUMBER, and Mr. STONE as the conferees on the part of the Senate.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 10559. An act to designate St. Andrews, Fla., as a support of entry; to the Committee on Ways and Means.

S. 10638. An act to authorize the Secretary of War to sell certain lands owned by the United States and situated on Dauphin Island, in Mobile County, Ala.; to the Committee on Military Affairs.

S. 10756. An act granting public lands to the town of Omak, State of Washington, for public-park purposes; to the Committee on the Public Lands.

S. 10591. An act to grant certain lands to the city of Trinidad, Colo.; to the Committee on the Public Lands.

S. 9113. An act fixing the salary of the collector of customs for the customs district of Montana and Idaho; to the Committee on Ways and Means.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 11798. An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers;

H. R. 24123. An act for the relief of the legal representatives of William M. Wightman, deceased;

H. R. 31056. An act to ratify a certain lease with the Seneca Nation of Indians;

H. R. 27837. An act to amend the provisions of the act of March 3, 1885, limiting the compensation of storekeepers, gaugers, and storekeeper-gaugers in certain cases to \$2 a day, and for other purposes; and

H. R. 31662. An act granting five years' extension of time to Charles H. Cornell, his assigns, assignees, successors, and grantees, in which to construct a dam across the Niobrara River on the Fort Niobrara Military Reservation, and to construct electric light and power wires and telephone line and trolley or electric railway, with telegraph and telephone lines, across said reservation.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed bills and a joint resolution of the following titles:

On January 27, 1911:

H. R. 28434. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

H. R. 28435. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

On February 2, 1911:

H. R. 25235. An act to provide for the sale of lands acquired under the provisions of the reclamation act and which are not needed for the purposes of that act.

On February 3, 1911:

H. R. 15665. An act providing for the appointment of deputy clerks to the United States circuit court of appeals;

H. R. 15660. An act providing for second homestead and desert-land entries; and

H. R. 20109. An act to quiet title to certain land in Dona Ana County, N. Mex.

On February 6, 1911:

H. R. 20366. An act to transfer St. Joseph Bay, of the Pensacola collection district, in the State of Florida, to the Apalachicola collection district.

On February 7, 1911:

H. R. 21220. An act transferring Maries County to the eastern division of the eastern judicial district of Missouri.

On February 8, 1911:

H. R. 710. An act for the relief of Cornelius Cahill; and
H. R. 17729. An act for the relief of James F. De Beau.

On February 13, 1911:

H. R. 15342. An act to reimburse Charles K. Darling for moneys necessarily expended by him as clerk of the court of appeals for the first circuit.

On February 15, 1911:

H. R. 18857. An act for the relief of Laura A. Wagner;

H. R. 21646. An act for the relief of William Doherty;

H. R. 23361. An act authorizing the Hot Springs Lodge, No. 62, Ancient Free and Accepted Masons, under the jurisdiction of the Grand Lodge of Arkansas, to occupy and construct buildings for the use of the organization on lots Nos. 1 and 2, in block No. 114, in the city of Hot Springs, Ark.;

H. R. 29715. An act to extend the time for commencing and completing bridges and approaches thereto across the Waccamaw River, S. C.;

H. R. 30149. An act to transfer the military reservation known as Fort Trumbull, situated at New London, Conn., from the War Department to the Treasury Department, for the use of the Revenue-Cutter Service;

H. R. 30793. An act to authorize the Fargo & Moorhead Street Railway Co. to construct a bridge across the Red River of the North;

H. R. 30890. An act to authorize the Chicago Great Western Railroad Co., a corporation, to construct a bridge across the Mississippi River at St. Paul, Minn.;

H. R. 30899. An act to authorize the Great Western Land Co. of Missouri to construct a bridge across Black River;

H. R. 31171. An act to amend an act entitled "An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Co." approved March 2, 1907;

H. R. 31648. An act to authorize the county of Hamilton, in the State of Tennessee, to construct a bridge across the Tennessee River at Chattanooga, Tenn.;

H. R. 31649. An act to authorize the county of Hamilton, in the State of Tennessee, to construct a bridge across the Tennessee River at Chattanooga, Tenn.;

H. R. 31656. An act extending the time for commencing and completing the bridge authorized by an act approved April 23, 1906, entitled "An act to authorize the Fayette Bridge Co. to construct a bridge over the Monongahela River, Pa., from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County;"

H. R. 31859. An act to authorize the Chucawalla Development Co. to build a dam across the Colorado River at or near the mouth of Pyramid Canyon, Ariz.; also a diversion intake dam at or near Black Point, Ariz., and Blythe, Cal.;

H. R. 31927. An act authorizing the town of Blackberry to construct a bridge across the Mississippi River in Itasca County, Minn.;

H. R. 32004. An act providing for the quadrennial election of members of the Philippine Assembly and Resident Commissioners to the United States, and for other purposes; and

H. J. Res. 213. Joint resolution authorizing the President to invite foreign countries to participate in the Panama-Pacific International Exposition in 1915 at San Francisco, Cal.

On February 16, 1911:

H. R. 23314. An act to authorize the employment of letter carriers at certain post offices;

H. R. 28214. An act providing for the levy of taxes by the taxing officers of the Territory of Arizona, and for other purposes;

H. R. 31661. An act to authorize the Secretary of Commerce and Labor to transfer the lighthouse tender *Wistaria* to the Secretary of the Treasury;

H. R. 21882. An act for the relief of Horace D. Bennett;

H. R. 18342. An act for the relief of E. C. Young;

H. R. 19505. An act for the relief of Eugene Martin;

H. R. 19747. An act for the relief of William C. Rich;

H. R. 23827. An act extending the provisions of section 4 of the act of August 18, 1894, and acts amendatory thereto, to the Fort Bridger abandoned military reservation, in Wyoming;

H. R. 30727. An act providing for the sale of certain lands to the city of Buffalo, Wyo.;

H. R. 32222. An act authorizing homestead entries on certain lands formerly a part of the Red Lake Indian Reservation, in the State of Minnesota;

H. R. 26529. An act for the relief of Phoebe Clark;

H. R. 30135. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

H. R. 30886. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

H. R. 31161. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

H. R. 31172. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors.

SENATE CONCURRENT RESOLUTION REFERRED.

Under clause 2, Rule XXIV, the following concurrent resolution was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

Senate concurrent resolution 7.

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound, in the form of eulogies, including illustrations, 7,000 copies of the proceedings on the occasion of the dedication of the Stephenson Grand Army memorial in Washington, July 3, 1909, of which 1,500 shall be for the use of the Senate, 3,500 for the use of the House of Representatives, and 2,000 to be delivered to the Stephenson Grand Army memorial committee—to the Committee on Printing.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 26685. An act to authorize E. J. Bomer and S. B. Wilson to construct and operate an electric railway over the National Cemetery Road at Vicksburg, Miss.; and

H. R. 26018. An act for the relief of James Donovan.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 26150) to authorize the cities of Boston and Cambridge, Mass., to construct drawless bridge across the Charles River, between the cities of Cambridge and Boston, in the State of Massachusetts.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6953) authorizing contracts for the disposition of waters of projects under the reclamation act, and for other purposes.

The message also announced that the Senate had passed the following resolution:

Senate concurrent resolution 7.

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound, in the form of eulogies, including illustrations, 7,000 copies of the proceedings on the occasion of the dedication of the Stephenson Grand Army Memorial, in Washington, July 3, 1909, of which 1,500 shall be for the use of the Senate, 3,500 for the use of the House of Representatives, and 2,000 to be delivered to the Stephenson Grand Army memorial committee.

INDIAN APPROPRIATION BILL.

Mr. BURKE of South Dakota. Mr. Speaker, I call up the conference report on the Indian appropriation bill.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

A bill (H. R. 28406) making appropriations for the current and contingent expenses for the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1912.

Mr. BURKE of South Dakota. Mr. Speaker, I ask unanimous consent that the statement may be read in lieu of the report.

Mr. MANN. Reserving the right to object, I would like to ask the gentleman if reading the report would not be more intelligent than the statement, in that the report quotes the language proposed to be inserted, and it is shorter than the statement.

Mr. BURKE of South Dakota. It is shorter than the statement, and it may be that the suggestion of the gentleman from Illinois is correct. I am not particular about it.

Mr. MANN. I am not particular, either; I only called the gentleman's attention to it. I will not object to the request of the gentleman from South Dakota.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota that the statement be read in lieu of the report?

Mr. FITZGERALD. Mr. Speaker, reserving the right to object, I desire to inquire of the gentleman whether there is any new matter that would be subject to a point of order.

Mr. BURKE of South Dakota. I think not; we have endeavored to avoid legislation beyond the power of the conferees.

The SPEAKER. The Chair hears no objection. The Clerk will read the statement. The Chair desires to call the at-

tention of the House to the fact that on pages 2699 and 2700 of the RECORD, a portion of this statement, there is quite an extensive table.

Mr. BURKE of South Dakota. Mr. Speaker, I will ask unanimous consent that the table be omitted in the reading of the statement.

Mr. SPEAKER. Is there objection?

There is no objection.

The SPEAKER. The Clerk will read the statement.

The Clerk read the statement of the conferees.

[For statement see CONGRESSIONAL RECORD of February 16, 1911, page 2697.]

Mr. BURKE of South Dakota. Mr. Speaker, I desire to make a correction in the statement which has just been read. On page 2792, in the right-hand column, after the paragraph, occurs the following:

The items on which the conferees were unable to agree are as follows:

I wish to insert there the words "No. 48."

Then, before the second paragraph from the end, which begins—

That the Commissioner of the General Land Office be, and he is hereby, etc.—

I wish to insert the words "No. 76." Those figures are omitted from the report, as printed.

The SPEAKER. Without objection, the statement will be corrected in accordance with the statement of the gentleman.

There was no objection.

Mr. TAYLOR of Colorado. Mr. Speaker, will the gentleman yield?

Mr. BURKE of South Dakota. I yield to the gentleman.

Mr. TAYLOR of Colorado. Mr. Speaker, I desire to ask a question. I don't know whether it is proper to come here or not, but on page 48 of this bill I call attention to the item 76. Was that put in in the Senate as a Senate amendment or in conference?

Mr. BURKE of South Dakota. That item is a Senate amendment, to which the House conferees have not agreed, and we have reported a disagreement.

Mr. TAYLOR of Colorado. On that item?

Mr. BURKE of South Dakota. On that item.

Mr. TAYLOR of Colorado. The House conferees have not as yet agreed to that?

Mr. BURKE of South Dakota. No; we have not; and we may discuss it a little later when we come to the items in disagreement.

Mr. COX of Indiana. Mr. Speaker, will the gentleman yield for a question?

Mr. BURKE of South Dakota. Certainly.

Mr. COX of Indiana. Mr. Speaker, I want to call the attention of the chairman of the committee to amendment No. 48 of the bill on page 29, a Senate amendment. I have not had an opportunity of reading it except as I have observed it read in the report. It strikes me as rather a peculiar provision. Is it an attempt to make or constitute a court or quasi court at some Indian agency out there to try controversies between some man who may have squatted around on some reservation as a trader and the Indians?

Mr. BURKE of South Dakota. In reply to the inquiry of the gentleman from Indiana, I will say that the amendment to which he has reference is a Senate amendment, to which the House conferees have not agreed and on which they have reported a disagreement. At the proper time I shall discuss the reasons for the action of the House conferees in refusing to agree to the Senate amendment.

Mr. COX of Indiana. Before the gentleman moves—

Mr. BURKE of South Dakota. Oh, certainly.

Mr. COX of Indiana. Very well. I desire to hear an explanation of it, as to what the effect of it will be in the event that the conferees may eventually agree to the Senate amendment. It strikes me as being very peculiar.

Mr. STAFFORD. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. STAFFORD. Mr. Speaker, I wish to direct the gentleman's attention to amendment No. 88, which relates to the dead and down timber on the Menominee Indian Reservation. I have glanced over it hurriedly and have the impression that the amendment authorizes the Secretary of the Interior to dispose of the dead and down and also to cut additional green timber. Is it contemplated to have that timber cut at the lumber mill that the Government established a few years ago at Neopit on the Menominee Indian Reservation?

Mr. BURKE of South Dakota. I will say in reply to that inquiry of the gentleman that the item is a Senate amendment. Undoubtedly it is legislation, but owing to a fire during the last year a condition prevails in the Menominee Reservation by which, unless there is some legislation making it possible to

make disposition of the burned timber, there will be great loss to the Indians. This legislation was suggested by the department, and I may say it was very carefully considered by a number of the colleagues of the gentleman in this House and was gone over very fully by the House conferees. It does not go further than the existing law in the amount of green timber that may be cut, but does increase the amount of timber that may be logged sufficiently to take care of the dead and down timber, and it is limited in its operation to the present year. It is proposed to use the mill that the gentleman has referred to in the sawing of this timber.

Mr. STAFFORD. Is the dead and down timber to be exclusively milled at the Government mill at Neopit?

Mr. BURKE of South Dakota. My understanding is that that is the purpose.

Mr. STAFFORD. And this provision is only granting additional authority to the Secretary of the Interior by reason of the exceptional conditions that have arisen since the forest fires of last year?

Mr. BURKE of South Dakota. Yes; and also provides an authorization of an expenditure of some of the funds for the construction of a logging road in order that this dead and down timber may be brought to the mill, there not being any authority of law at present for the construction of a railroad, the law, I believe, being limited to the construction of roads other than railroads.

Mr. STAFFORD. As to the authority of law, I recall when I visited this reservation two years ago that the Government was then engaged in the building of a railroad under the supervision of the Secretary of Agriculture, and I presume there was authority for that construction.

Mr. BURKE of South Dakota. I will say, Mr. Speaker, in response to the suggestion that, having understood that was the case, I made inquiry and was assured by representatives of the department and also by some of the colleagues of the gentleman from his State that there has been in fact no road constructed that could be paid for from the funds of the Indians. Any railroad entering there is part of some railroad company that the Government had no interest in, but I understood that considerable sums had been expended in the construction of other roads, but not railroads.

Mr. STAFFORD. I recall distinctly when the committee on the pulp and paper investigation visited the reservation there was then being graded a road along the Little Wolf River by officials of the Forestry Division of the Department of Agriculture, and I was informed it was to be a Government-aided project.

Mr. BURKE of South Dakota. And having had that information, Mr. Speaker, I made the inquiry, as I have stated, and I have been informed that it is not true.

Mr. STAFFORD. This provision does not seek to vest any authority in the Government to construct a railroad on the reservation?

Mr. BURKE of South Dakota. Except a logging road to get to this section of the reservation where the dead and down timber is located, and unless we make provision for the building of a road it would be impossible to do anything with the timber there.

Mr. STAFFORD. The gentleman does not mean to say that it is necessary to have a branch railroad on this reservation in order to bring the dead and down to the mill at Neopit?

Mr. BURKE of South Dakota. I understand, Mr. Speaker, this is to be a logging road, a sort of road from the section of the reservation where the fallen timber is located to the mill. Whether it is in connection with any other railroad I have no information.

Mr. STAFFORD. I thought it was possible to have the dead and down timber brought on the logging roads without the construction of a branch railroad, because there is plenty of snow up there during the winter season, and the dead and down timber could be brought out.

Mr. BURKE of South Dakota. Our information on that point was that there was no way to get the timber to the mill and that the cost of constructing the road would be nominal and not a matter of any great expense.

Mr. STAFFORD. When you say the construction of a road, you refer to the construction of a railroad?

Mr. BURKE of South Dakota. What we call a logging road; I do not know whether that is a railroad—I suppose it is—rails and ties.

Mr. STAFFORD. This uses the term "railroad" in the amendment. When the gentleman says it will not be constructed at any great expense, from the observation we made we thought the Government at that time was engaged in a very expensive project in the building of a railroad along the Little Wolf River. I can not see the necessity for the Government's

building a railroad, even though it may be a logging road, to be paid for out of the funds of the Indians.

Mr. BURKE of South Dakota. Let me say to the gentleman that the purpose of this legislation is to make it possible to dispose of a very large amount of timber that has been burned and which belongs to the Indians, and unless there is this legislation we are told that the timber will be worthless for any purpose, and that without this logging road you might as well not enact the balance of the legislation. That is our information.

Mr. STAFFORD. I quite agree with the main purpose and approve of it, but if there ever was a demonstration of wastefulness on the part of retaining dead and down timber that was down for four or five or six years until it was absolutely worthless it was shown by the millions of feet piled up all along the Little Wolf River on the reservation.

Mr. BURKE of South Dakota. I would like to ask the gentleman if he can give us the information as to who is responsible. Does he mean to imply by that that the bureau which is charged with the responsibility of looking after the Indians was derelict and negligent in not properly protecting their interests on that reservation, and thereby they suffered, or was it through lack of legislation by Congress or by the fact that the legislation was inoperative.

Mr. STAFFORD. As I understand the situation, when this cyclone occurred some years back that caused so much devastation upon this Indian reservation to the standing timber, the then Representative from that district, Hon. Webster Brown, succeeded in passing through this House a bill whereby that could be utilized, but in another body, as I understand, it met with objection, and not only was that condition not limited to one session, but to more than one session, and as a result the Indians have suffered, and their trust funds have suffered by reason of that policy. As I understand, it was not through any fault of the department officials, but more through the neglect of Congress to come to an agreement by reason of the conflict between the two bodies.

Mr. MANN. That is hardly correct, either. Will the gentleman yield for a question?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. This contemplates, as I understand, that the present mill upon this reservation shall be used for the purpose of manufacturing into lumber all of the timber on the reservation that ought to be cut and manufactured into lumber.

Mr. BURKE of South Dakota. With the exception that it is limited to 40,000,000 feet. The present law, as I understand it, limits the amount of timber that may be cut—that is, green timber—to 20,000,000 feet.

Mr. MANN. I understand. What I want to get at is this: Under the law that was passed some years ago we authorized the construction of a sawmill upon the reservation, and the Government constructed a very large and expensive sawmill, with a view, at that time not authorized by Congress, but with a view—and I have no criticism of it—of having the sawmill manufacture into lumber the timber on the reservation that could be manufactured into lumber in such a way as to keep the sawmill in perpetual operation, using the matured timber as it should be used.

Now, this 40,000,000 feet contemplated that the timber land upon this reservation shall be perpetually reserved as forest lands, and that 40,000,000 feet would simply take care of that which ought to be taken care of, with the view of the manufacture of that amount for many years, or perpetually.

Mr. BURKE of South Dakota. It is my understanding of this provision that, beyond authorizing the construction of a logging road, it does nothing except to permit the cutting of enough timber to take care of this dead and down timber, and does not increase the amount of green timber that may be cut.

I would like the gentleman, as he is well informed on that subject, to inform the House as to the construction and erection of this mill which he has referred to, as to whether or not that mill was constructed under the Bureau of Forestry or under the Bureau of Indian Affairs, if he knows?

Mr. MANN. It was constructed under the Bureau of Forestry—that is to say, it was done under the Indian Department—but the Bureau of Forestry was called in to take charge of that construction, as I recall it, by law, probably, but whether by law or not, it does not make any difference. They were authorized to do that. They constructed a mill much larger than would ever be required for purposes which were then contemplated, taking the view that, as the Government was entering into the manufacturing business at this reservation, it was economy in the long run to construct a mill of sufficient size to continuously manufacture logs into lumber at this mill. Whether that was wise or not I do not undertake to say. I

thought it was a mistake at the time. The Government has entered upon it. Now, what I wished only to ascertain was whether, that being the case, it had been figured out or concluded whether the amount now authorized would tally in the end and work out, so that this mill might be kept in continuous operation in the future.

Mr. BURKE of South Dakota. I will say to the gentleman that I have heard some of the criticism that he has mentioned in regard to this mill. But as to answering his question as to what the mill will do with this legislation, as to whether or not this will keep it in operation, I am unable to state. The gentleman from Wisconsin [Mr. MORSE], who represents the district in which this reservation is located, perhaps could answer the question of the gentleman.

Mr. MANN. Some time I would like to ask the gentleman about some other items in the report.

Mr. BURKE of South Dakota. I should be very glad to have him do so.

Mr. MORSE. What was the question?

Mr. BURKE of South Dakota. The gentleman from Illinois [Mr. MANN] desires information regarding the mill on the Menominee Reservation, as to whether or not the amount of timber that has been milled at the mill under existing law has been sufficient to keep the mill in operation. If not, whether or not the additional timber that will be manufactured of dead and down will keep it in operation, and whether the mill can take care of it or not.

Mr. MANN. Of course, I know that the present amount is not sufficient to keep the mill in continuous operation. But will the 40,000,000 feet not only keep the mill in operation, but will the cutting of 40,000,000 feet keep the place in continual operation?

Mr. MORSE. In reply to the gentleman from Illinois [Mr. MANN] I will say that one of the estimates made was that the growth on the 10 townships would amount, I think, to a little less than the 40,000,000 feet. But I would like to call the attention of the gentleman from Illinois to the fact that at this time the forest is all matured; that is, it has never been cut over. It is the result of centuries of growth, and for the first 10 or 15 or 20 years it will probably be necessary or advisable to cut at least 50,000,000 feet a year.

Mr. MANN. Perhaps that is the truth, but the gentleman is slightly in error when he says that no timber has ever been cut on this forest, because I myself, personally, have seen too many stumps scattered all through the forest while walking through it.

Mr. MORSE. My statement was not absolutely accurate, and the gentleman is right about that. Heretofore some pine along the streams has been cut by the Indians themselves and floated down the streams and sold at Oshkosh, which is down the river some 50 or 75 miles. But the large part of the forest is uncut. A large part is hardwood, which would not float, and never until this time has there been a railroad; never until within three or four years. None of the hardwood could be taken out, because it would not float. A great many sections, in fact many townships, are composed mainly of hardwood. They are uncut. Of course, the fires in years gone by have run through there somewhat, but it is a magnificent body of hardwood.

Mr. MANN. It is the best I have ever seen, but I have never been to North Carolina or Arkansas to look at the hardwood forests there.

Mr. KOPP. I would like to ask the gentleman from Wisconsin [Mr. MORSE] whether this lumber has been able to compete with other lumber companies in the market?

Mr. MORSE. It has competed to the extent that many of the other lumber companies are doing all in their power to discredit the operation there. The enterprise has been very successful. Of course at the beginning there was a lot of timber that was blown down by the cyclone and it was not taken care of properly. In this matter the legislation was held up for months when it ought to have been passed promptly, and the result was that a large amount of that magnificent hardwood rotted in the woods and was destroyed. But since that the mill has been running successfully, and has been manufacturing lumber in successful competition with private institutions.

Mr. STAFFORD. I would like to direct the attention of the gentleman to the provision here authorizing the construction of a logging railway. Will the gentleman inform the House as to the necessity of constructing, at Government expense, a logging railway in this small reservation?

Mr. MORSE. Yes; with pleasure. It was supposed by many Members of this House when this measure was drawn that a little logging railway could be put in there on the reservation. The Attorney General, however, who advises the Indian Department, told them that it could not be constructed under the law. Now, in order to make it sure, we are giving them this power to build this little logging railway.

Mr. STAFFORD. As I understand, there was one that was projected, if not partly constructed, there two years ago.

Mr. MORSE. I do not remember that.

Mr. STAFFORD. Two years ago there was some construction of a logging railway on the Little Wolf River under Government supervision.

Mr. MORSE. The Government operated in cooperation with the Wisconsin Northern Railroad Co. there, and in order to get the rails down promptly I believe they did a little grading and furnished their own ties.

Mr. STAFFORD. They not only did that, but they also put in some bridges, as I understand.

Mr. GOULDEN. What is the extent and quality of the timber in this reservation?

Mr. MORSE. It is the finest body of hardwood left in the Northwest, probably the finest on the American Continent.

Mr. GOULDEN. What is the extent in acres?

Mr. MORSE. Ten townships. Of course, as the gentleman from Illinois has suggested, some of it was cut off years ago. A little of it is burnt over, but there are probably six or seven and possibly eight townships of solid timber left standing.

Mr. GOULDEN. Five or six thousand acres in round figures?

Mr. MORSE. Oh, a great deal more than that.

Mr. COOPER of Wisconsin. A township contains 36 square miles, and each square mile contains 640 acres.

Mr. GOULDEN. The gentleman stated that the timber had rotted. What kind of hard wood would rot so quickly?

Mr. MORSE. Basswood will rot in one summer. Birch will spoil almost completely in one summer.

Mr. GOULDEN. You mean wood that has been cut down?

Mr. MORSE. Down timber.

Mr. GOULDEN. Not standing and alive.

Mr. MORSE. Timber that was blown down by a cyclone.

Mr. GOULDEN. Was there much of it blown down?

Mr. MORSE. Yes; there was 50,000,000 feet of it blown down.

Mr. MILLER of Minnesota. I should like to ask the gentleman from Wisconsin if he can tell us approximately how many feet of hardwood timber are to be found on this reservation.

Mr. MORSE. I have not the figures. I am sorry I can not tell the gentleman.

Mr. MILLER of Minnesota. As a matter of fact, does it not run up into the hundreds of millions of feet?

Mr. MORSE. Yes; indeed.

Mr. MILLER of Minnesota. A further question. In a logging and milling plant commensurate with the size of this undertaking in these modern times, is it not absolutely essential that there be some kind of a logging railroad?

Mr. MORSE. It is. I do not know of one modern plant in northern Wisconsin that does not have some sort of a logging railroad connected with it.

Mr. MONDELL. Is it not true that most of your logging in Wisconsin is carried on in the winter on sleds?

Mr. MORSE. Yes.

Mr. MONDELL. Is it not expensive to log by railroad?

Mr. MORSE. No; it is less expensive to log by railroad. Understand that some of this timber is 7 or 8 miles away from the mill, and you can not haul that distance on sleds to advantage.

Mr. MONDELL. They do in Wisconsin.

Mr. MORSE. A township is 6 miles across, and there are 10 townships here.

Mr. BURKE of South Dakota. I yield to the gentleman from Minnesota [Mr. MILLER] for a statement.

Mr. MILLER of Minnesota. Mr. Speaker, there seems to be some little uncertainty in the minds of the membership of the House as to the advisability of this logging railroad. Having lived for some years in a lumber and logging community, I feel that my statement may be of some value in this connection. Years ago it was the common method to conduct logging operations exclusively by teaming and skidding. In recent years, however, that method has been found extremely expensive, and under the competition that now exists it is almost unknown as an exclusive method. There is now a combination of the two, the logging railway and the team. The team hauls the logs from the place where they are cut and banks them in a convenient place at the railroad track, and the railroad then hauls the logs to the mill. I do not think there is a lumber company in Wisconsin or Minnesota of any magnitude but that has as an essential part of its system some kind of a logging railway. Do not understand that this contemplates the construction of a permanent roadbed and trestles and that sort of thing. They run the railroad track right along on the surface, and if you ride over it you think you have gone to sea in a sailboat. The track is simply laid upon the surface and is very rough in places—is simply laid down for this particular purpose and moved about as prosecution of the work requires. While to gentlemen who are not familiar with the subject it may seem

singular that a logging railway should be needed, yet everyone acquainted with logging operations knows that for a project of any size it is absolutely essential to successful operation of the plant.

Mr. BURKE of South Dakota. I yield to the gentleman from Wyoming [Mr. MONDELL] for a question.

Mr. MONDELL. I wish to ask the gentleman from Minnesota a question.

Mr. BURKE of South Dakota. I now yield to the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, the gentleman from Minnesota has partly answered the question that I intended to ask, but I want to ask the chairman of the committee if he has investigated personally the question of the necessity of constructing logging railroads in this particular locality, and to what extent they expect to build them.

Mr. BURKE of South Dakota. I have not, Mr. Speaker, beyond being assured that the only logging road contemplated is to get into the section where the burned timber is located.

Mr. MONDELL. This is to supply the necessity arising from the project that was passed by the House some years ago?

Mr. BURKE of South Dakota. It is.

Mr. MONDELL. And it is necessary, in view of the fact that we have embarked on that undertaking, and the gentleman recollects that when the matter was in the House there was considerable objection to it, but it was heralded through the press and in magazine articles, very complimentary to the undertaking, which pleased all the friends of State socialism as an illustration of the wonderful things that could be done under Government supervision. But after the bubble was pricked it was discovered that the extravagancies that often attend Government undertakings in the domain of private enterprise had occurred here, and that the Indian fund had been vastly depleted by the tremendous expense in the building of this mill and the expensive lumber operations. Does the gentleman believe that we can hope for any better results in the future than the very unsatisfactory results in the past?

Mr. BURKE of South Dakota. I will say to the gentleman that I have not information sufficient to indorse what might be termed the "whereas" that precedes his question.

The question being predicated upon a state of affairs that may or may not exist, I am unable to answer the question, except to say that I have sufficient information to believe that no matter what has transpired in the past, now and henceforth there will be nothing that can be seriously criticized in the administration of the cutting of the timber and the manufacturing of the lumber at this mill to which the gentleman has referred.

Mr. MONDELL. I realize and approve the attitude of the gentleman in refraining from criticism, but it seems to me it is just to the House and fair to the country that the facts should not be overlooked. That it did turn out that this undertaking was tremendously expensive, that the results were nothing like what were prophesied for the undertaking, and that instead of being so useful and valuable and helpful as was widely prophesied and widely heralded should not be lost sight of, as a matter of fact it was almost a scandal, a tremendous expense, and I think I may properly say a harmful extravagance.

Mr. BURKE of South Dakota. I wish to suggest to the gentleman, and I know he will appreciate it, that this comes up in an entirely different way than would be the case if there was a bill to change materially the conditions with relation to the cutting of timber and the disposition of timber upon this reservation. The only question that is involved in this amendment is to make it possible to cut some timber that has been burned over in the last year that will be destroyed unless we provide for its manufacture. We do not change the existing law in any particular, except to increase the amount of timber that may be cut, limiting the increase to the down timber, and authorize the construction of this logging road.

Now, the only thing I sought to obtain information about related to the conditions and to ascertain whether they are such as to demand some remedial legislation to make it possible to save to the Indians this great amount of timber that otherwise would go to destruction. Therefore we did not go into the question which the gentleman has in mind when he asked this question, which he evidently asked laboring under the impression that there are conditions there that have not proved practical and that might be criticized. I do not know what those conditions are from any personal investigation.

Mr. MONDELL. I am not laboring under any such impression. The facts are well known to those who have taken the trouble to investigate them. As I understand it, the committee is endeavoring to make the best of a situation entered upon under exaggerated and flamboyant promises of splendid results to be achieved, in the achievement of which the country was sadly disappointed.

Mr. BURKE of South Dakota. The gentleman is endeavoring to make something out of a bad situation caused by a fire destroying a great quantity of timber in the reservation.

Mr. MONDELL. The destruction of the timber by the fire really had nothing to do directly with the undertaking of this enterprise. It might possibly have been made an excuse—I do not recall as to that—but if that were so, it was simply an excuse for the undertaking.

Mr. BURKE of South Dakota. I will say to the gentleman that he certainly does not wish to say this legislation is proposed except because of a condition that is caused by this fire. That is the only thing that suggests it. That is the only thing that it does.

Mr. MONDELL. It keeps the mill running, and it was stated that under legislation as it stood the mill would not have sufficient lumber.

Mr. BURKE of South Dakota. That question of keeping the mill running was not considered, and when the legislation was enacted it was proposed, as I recall, in the House, I think by the House bill, to make the amount of green timber that might be marketed 50,000,000 of feet annually.

Mr. MORSE. Yes; that was the amount in the original bill.

Mr. BURKE of South Dakota. And I think, at the instance of the gentleman from Illinois [Mr. MANN] and the gentleman from New York [Mr. FITZGERALD], perhaps, there was an objection to there being so large an amount as that authorized to be cut annually, and it was reduced in the House.

Mr. MORSE. It was reduced to 25,000,000. Will not the gentleman from South Dakota yield to me to answer the question?

Mr. BURKE of South Dakota. I will yield to the gentleman later, but my understanding is that it was changed in the Senate, and when it became a law it was 20,000,000 feet.

Mr. MONDELL. Before the gentleman from Wisconsin takes the floor, if I have not lost my right, I simply want to say that I have no objection to the legislation. I think the committee has made the best of a bad situation. I feel as though it was proper to have the facts in regard to the matter brought to the memory of Members of the House, in order that we may not make a like mistake in the future.

Mr. CAMPBELL. Mr. Speaker, I do not understand why the gentleman from Wyoming persists in asserting and reasserting that we are trying to get out of a bad situation here or to correct a blunder that has heretofore been made by any administrative officer or by the Congress. We are endeavoring to market some down timber, the result of a fire, and authorizing the cutting of enough green timber to make roads so as to get that down and dead timber to the mill. That is all this agreement was inserted for and all the purpose that it has in this bill at this time.

Mr. STAFFORD. Does the committee have any information as to the expense that would be occasioned by the building of this logging railway?

Mr. CAMPBELL. Oh, it was estimated anywhere from \$20,000 to \$40,000.

Mr. STAFFORD. Twenty to forty thousand dollars would only build about 1 mile on the scale that the work was being undertaken some two years ago, because in that hilly country it was very difficult to lay any logging railway.

Mr. KENDALL. It was only a temporary road?

Mr. STAFFORD. The road then being built was of a permanent character.

Mr. BURKE of South Dakota. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. MORSE] for five minutes.

Mr. MORSE. Mr. Speaker, I feel that I must answer the innuendo contained in the question of the gentleman from Wyoming [Mr. MONDELL]. In the first place, we are not trying to get out of a bad situation; it is not a bad situation. It is a good proposition. This mill was put in there for the purpose of giving the Indians work, and does give them work. There are over 200 Indians out of that little tribe working continually. You are making men out of them, you are giving them work right there at home and giving them a valuable occupation.

Mr. STAFFORD. Can the gentleman inform the House of the number of Indians that are daily employed in this Neopit mill?

Mr. MORSE. The number varies. There are not so many in the mill, but a large number in the lumber camps, so that it runs some months as high as 300.

Mr. MONDELL. Do I understand the gentleman to say that the Indians would not work unless they could work for the Government?

Mr. MORSE. They had no chance to work. Under the rules of the Government, if they leave the reservation they lose their

rights and there is no place to work there unless the timber is cut, and the timber is being cut on the reservation and being manufactured by Indian labor, and it is being manufactured at \$10.24 per thousand feet, and they are running in competition with private business and they are being paid for the work.

Mr. McGUIRE of Oklahoma. Mr. Speaker, does the gentleman refer to the mill on the Menominee Indian Reservation?

Mr. MORSE. I do.

Mr. McGUIRE of Oklahoma. I understood the gentleman to say that it was a profitable enterprise.

Mr. MORSE. And I repeat it.

Mr. McGUIRE of Oklahoma. The evidence before the Committee on Expenditures in the Interior Department is to the effect, coming direct from the Interior Department, that it costs that tribe of Indians nearly a millions dollars to institute and conduct this enterprise and it has been done at a loss of nearly \$1,000,000 to this tribe of Indians.

Mr. MORSE. I have a statement; I get the monthly statement from the Indian department itself each month frequently. Of course, it has been a large investment. What have you done? You have taken 20 townships of land; you are creating the most magnificent forest reserve on the American Continent. We have assisted in the building of railroads, sidetracks; we have built a magnificent mill, the finest in northern Wisconsin, and we have equipped it and it is in operation.

Mr. McGUIRE of Oklahoma. Is it not the statement of the Interior Department that the kind and character of this mill is not what it should be for the manufacture of this timber; that is, the capacity of the mill is very much greater than necessary for the manufacture of timber?

Mr. MORSE. The gentleman is in error; he has not listened to the debate. The capacity is not too large for the amount of timber there on the reservation. Listen, the capacity is too large for the amount of timber that they are permitted to cut under the law as it was originally passed by this House, and what we are trying to do right here by this amendment is to enlarge that amount. Now, my time is almost up, and I want to say, in reply to the gentleman from Wyoming with regard to State socialism, that I am informed he is about to or has reported into this House, or will within a day or two, a bill that goes further in the direction of State socialism than this bill ever thought of doing. He wants to mine coal on public land, the Government retaining title and control of those lands. If that is not State socialism I want to know what is.

Mr. MONDELL. It does not involve any draft on the Treasury, but it puts funds into the Treasury.

Mr. MORSE. This does not cost the Treasury 1 cent; the gentleman from Wyoming knows better than that.

Mr. MONDELL. Better than what?

Mr. MORSE. That this operation costs the Government a penny.

Mr. MONDELL. It costs over a million dollars—

Mr. MORSE. Of the Indians' money.

Mr. MONDELL. Oh, you take it from the Indians.

Mr. MORSE. The Indians' money is being used to develop their own plant and their own operations, and not one cent of the money has been taken out of the Treasury that did not belong to these Indians. I want to state further that this has not been a tremendously expensive proposition. The funds have not been depleted. They have been invested, and properly invested, and in place of its being a failure it is a success not only from a business standpoint, but a success from the standpoint of the Indians, and that is of primary importance, in placing the mill on this reservation; and I want to say to the gentleman if he bases his conclusion on the statement of that man who appeared before the Pinchot-Ballinger investigating committee that he has based it upon a tissue of falsehood from beginning to end. I wanted at that time to call the attention of this House to it.

Mr. MONDELL. I never heard of any statement of that character nor ever read any of the evidence before the committee.

Mr. MORSE. That was sent broadcast over the land, and I supposed the gentleman was basing his opinion on the opinion of that man who appeared before that committee.

Mr. MONDELL. My information comes entirely from official sources, I will say to the gentleman.

Mr. MORSE. The gentleman's information is misinformation.

Mr. MONDELL. Then it is official misinformation if it be misinformation.

Mr. MORSE. I think that is probably true, too.

Mr. BURKE of South Dakota. I yield to the gentleman from Oklahoma [Mr. McGUIRE].

The SPEAKER. The House has seemingly been proceeding by unanimous consent. The gentleman has not used an hour

yet. Although no motion is pending for time, I suppose the gentleman having the floor is entitled to an hour.

Mr. BURKE of South Dakota. Mr. Speaker, how much time is there remaining?

The SPEAKER. The gentleman has 15 minutes left of the hour.

Mr. BURKE of South Dakota. I would say, Mr. Speaker, if there are going to be many inquiries regarding different provisions in this bill, I do not care to discuss this one any further unless we can have some understanding as to the time.

The SPEAKER. The gentleman has had his time seemingly by unanimous consent. The Chair did not think proper to interrupt the gentleman, as everybody seemed to be happy. [Laughter.] The gentleman will proceed.

Mr. CARLIN. I want to suggest to the gentleman from South Dakota that we have no desire to postpone this conference report, but we do not wish to allow this conference report to be used for the purpose of defeating claims day.

Mr. BURKE of South Dakota. I will say to the gentleman that there is no disposition on the part of the gentleman in charge of this report to consume any time more than is absolutely necessary for the consideration of this report.

Mr. SIMS. The gentleman makes no motion.

Mr. BURKE of South Dakota. I am going to do so as soon as the gentleman from Oklahoma [Mr. McGuire] makes a statement.

Mr. MCGUIRE of Oklahoma. Mr. Speaker, I am not quite willing to allow the statement of the gentleman from Wisconsin [Mr. Morse] to go unchallenged with respect to the establishment and operation of this mill on the Menominee Indian Reservation. Before the Committee on Expenditures in the Interior Department there were a great number of witnesses who had personal knowledge of the situation and conditions on this reservation. The Indians, when this mill was established, had about \$3,000,000 in cash. After the mill had been operated for some months the Indians had nearly \$2,000,000 in cash. Every dollar that has been spent of the \$3,000,000 has been spent in the construction and operation of this mill. According to the testimony of the officers of the Interior Department, the capacity of the mill was much greater than was necessary for the sawing and manufacturing of timber adjacent to the mill. There is other timber in that country, according to the testimony, but no timber near enough and accessible to the mill to be used by it, and the sum total of the facts are that \$1,000,000, nearly, of the money of these Indians has been squandered by this unfortunate enterprise. I do not know whose fault it was. I do know this, that the Commissioner of Indian Affairs undertook to and did farm out some of his duties to the Forest Service, and under the supervision of the Forest Service they proceeded to construct this mill and manufacture the lumber, and the money of the Indians was squandered, and somebody is responsible for it. That is on the uncontradicted testimony of every witness before the Committee on Expenditures in the Interior Department.

Mr. MORSE. Just a word or two. The Forestry Department had nothing whatever to do with it, except to mark the trees.

Mr. MCGUIRE of Oklahoma. The Forestry Department were in charge of this mill and a gentleman detailed from the Forestry Department was superintendent of this enterprise.

Mr. MORSE. However, he was working for the Interior Department, and it was all done under the supervision of the Interior Department. I just wanted to correct the gentleman.

Mr. MCGUIRE of Oklahoma. It was done by contract, and the contract explains itself. It was done under a contract between the Commissioner of Indian Affairs and the Forestry Department, or Mr. Pinchot.

Mr. BURKE of South Dakota. Mr. Speaker, I move the adoption of the conference report.

The SPEAKER pro tempore (Mr. Olcott). The gentleman from South Dakota moves the adoption of the conference report.

Mr. MANN. Will the gentleman yield for a question?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. May I ask if amendment 16, on page 9, as printed, was agreed to?

Mr. BURKE of South Dakota. It was agreed to; yes, sir.

Mr. MANN. Just what is the purpose in providing in the bill that "the following sums be, and they are hereby, appropriated out of any money in the Treasury," and then, when you get over to this Senate amendment, provide that "there is hereby appropriated the sum of \$30,000?" Since when did we commence to form bills in that way?

Mr. BURKE of South Dakota. I can only say to the gentleman the item to which he refers is an amendment of the Senate creating a revolving or reimbursable fund.

Mr. MANN. I am not discussing the merits of the proposition. I am trying to get at the reason for inserting in the body of the bill at various places the words "there is hereby appro-

riated" certain sums, when the first part of the bill starts out, in the first section, with an appropriation.

Mr. BURKE of South Dakota. I will say to the gentleman the language used is the language adopted by another body.

Mr. MANN. I understand. Subject to amendment, however.

Mr. BURKE of South Dakota. Wait a moment. The committee followed the language in the Indian appropriation bill approved April 4, 1910, verbatim, and just how the language happens to be in this form, in view of the fact that the last year's bill passed when the gentleman from Illinois [Mr. MANN] was present, is something that I can not answer.

Mr. MANN. I can say to the gentleman from South Dakota [Mr. BURKE] that last year's bill did not pass the House in that shape. The same thing is true on page 11 with respect to amendment numbered 18. It seems to me that the gentleman's committee in conference ought to put the Senate amendment in the proper shape. It can not be expected that that shall be done in some other body.

Mr. BURKE of South Dakota. I do not think the gentleman need take any time in discussing the phraseology of an amendment that has been disagreed to in conference.

Mr. MANN. I do as to the form of the item.

Mr. BURKE of South Dakota. We disagreed to it, both as to form and everything else.

Mr. MANN. The gentleman from South Dakota [Mr. BURKE] agreed to the form of amendment 16, did he not?

Mr. BURKE of South Dakota. Yes.

Mr. MANN. I call it to the attention of the gentleman in the hope that, if agreed to, it will be put in the proper form.

Mr. BURKE of South Dakota. I think it is a technical criticism that the gentleman makes.

Mr. BYRNS. Mr. Speaker, I desire to call the attention of the gentleman from South Dakota [Mr. BURKE] to amendment No. 57, on page 38 of the bill—a Senate amendment. I notice it provides for the repayment to J. Blair Shoenfelt, late United States Indian agent at the Union Agency, Okla., the sum of \$3,578.63 for money embezzled by Lyman K. Lane, formerly financial clerk and cashier at that agency, for which the bill states the said Shoenfelt was accountable. Will the gentleman give some explanation as to why that money should be repaid?

Mr. BURKE of South Dakota. I will say that this amendment was not agreed to by the House conferees until after a number of days' discussion over the different amendments, and it was then with great reluctance that we did recede, not so much on account of the merits of it, but on account of the fact that it constitutes a claim, and we did not like to consent to anything in the nature of a claim being put upon this bill.

The facts of the case are that the shortage existed in the Union Agency in Oklahoma. The agent was short this sum of money that is herein mentioned. The shortage was due to an alleged embezzlement by some employee at the agency, and the superintendent or the agent got no part of the money himself. It was the subject of a very full report made by the Senate Committee on Claims, which went into it exhaustively, and it appeared to the committee that the merits of the claim were such as perhaps to demand the allowance of it. If the gentleman has ever had any experience in conference, he will know that he can not have his way in everything. The item was a small matter, and after discussion we receded and consented that this provision should go in.

Mr. FITZGERALD. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. FITZGERALD. This amendment proposes to do two things?

Mr. BURKE of South Dakota. Yes.

Mr. FITZGERALD. First, to repay the agent the amount of money that he was compelled to pay into the Treasury, and, second, to credit the Indian fund with the amount embezzled. What sense is there in the United States making good the default on the Indians?

Mr. BURKE of South Dakota. I do not comprehend the gentleman's question.

Mr. FITZGERALD. I say this amendment provides two things: First, the repayment of the money that the agent was compelled to pay because of the defalcation, and, secondly, it compels the United States to make good the amount that was stolen from the Indian funds.

Mr. BURKE of South Dakota. It is not Indian funds. It is the fund that was appropriated, as I understand it, for that agency. The superintendent has made good this shortage to the amount that it is proposed to repay him, and the balance is charged to him. The purpose of it is to repay him what he has paid and relieve him of the amount charged against him on the books.

Mr. BYRNS. What became of the money he repaid?

Mr. BURKE of South Dakota. It went into the Treasury, I presume.

Mr. BYRNS. Not to the credit of the fund from which it was taken.

Mr. BURKE of South Dakota. I do not understand that this was an Indian fund.

Mr. CARLIN. Mr. Speaker, under what order are we proceeding? Is it by unanimous consent?

The SPEAKER pro tempore. We are proceeding under the rule which gives to the gentleman from South Dakota [Mr. BURKE] one hour.

Mr. BURKE of South Dakota. I move the previous question on the motion to agree to the conference report.

Mr. MANN. Without any explanation of any of these other things?

Mr. BURKE of South Dakota. If I can get further time, I shall be very glad to have an explanation of everything; but I do not wish to lose control of the floor. I withhold the motion for a moment.

Mr. BYRNS. I should like to have some further explanation of this item.

Mr. BURKE of South Dakota. I will consent to any time that is desired to discuss this report, but I do not propose to lose control of the floor within my hour without moving the previous question, unless I have an extension of time.

The SPEAKER pro tempore. The Chair will say to the gentleman from South Dakota that his hour has almost expired.

Mr. CAMPBELL. Mr. Speaker, a parliamentary inquiry.

Mr. BURKE of South Dakota. I yield to the gentleman from Kansas.

Mr. CAMPBELL. The gentleman from South Dakota took the floor and a general discussion ensued on the bill without any motion. The Speaker stated that evidently the discussion was proceeding by unanimous consent, there having been no motion made relative to the conference report. The gentleman from South Dakota a few moments ago moved to agree to the conference report. He made that motion not to exceed 10 minutes ago. Is he not entitled to one hour from the time he made the motion?

The SPEAKER pro tempore. That was merely a formal motion, but the gentleman within his hour has moved the previous question.

Mr. CAMPBELL. Mr. Speaker, I will take the floor in my own right.

The SPEAKER pro tempore. The gentleman can not take the floor in his own right when the previous question has been moved.

Mr. CAMPBELL. But not put.

Mr. BURKE of South Dakota. I withdraw the motion for the present.

Mr. SIMS. Then I renew it.

Mr. CAMPBELL. I have the floor, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. Sims] moves the previous question.

Mr. CAMPBELL. But the gentleman from Tennessee does not have the floor, Mr. Speaker. I have the floor.

Mr. SIMS. Recognition is with the Chair.

The SPEAKER pro tempore. The gentleman from South Dakota made the motion for the previous question on the adoption of the conference report. Then he withdrew it, and the gentleman from Tennessee [Mr. Sims] renewed the motion for the previous question.

Mr. CAMPBELL. But the gentleman from Tennessee could not get the floor for that purpose while I had the floor.

The SPEAKER pro tempore. The gentleman merely had the floor to make a parliamentary inquiry, and the motion before the House is for the previous question.

Mr. CAMPBELL. Mr. Speaker, let me call the attention of the Chair to the fact that I had the floor.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MANN. In giving recognition, is not a member of the committee entitled to recognition prior to the gentleman from Tennessee, who is not a member of the committee?

The SPEAKER pro tempore. Not when a motion for the previous question is made. The motion for the previous question takes precedence.

Mr. MANN. Oh, not at all, unless the gentleman making the motion has the floor. Under that construction, Mr. Speaker, anyone could get up and move the previous question at any time.

Mr. BURKE of South Dakota. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BURKE of South Dakota. The gentleman from South Dakota who made the motion for the previous question withdrew that motion.

Mr. SIMS. And I renewed it.

Mr. BURKE of South Dakota. The gentleman from Kansas demanded recognition. The gentleman from Tennessee [Mr. Sims] got up from his place and, without addressing the Chair, said, "I renew it," without getting recognition. Now, I desire to know if he would be recognized in preference to the gentleman from Kansas, who was demanding recognition from the Chair?

The SPEAKER pro tempore. The motion for the previous question would be recognized in preference to the recognition of the gentleman from Kansas.

Mr. CAMPBELL. The gentleman from Tennessee did not address the Chair.

The SPEAKER pro tempore. Oh, the gentleman from Tennessee did address the Chair. Upon the withdrawal of the motion for the previous question by the gentleman from South Dakota, the gentleman from Tennessee renewed the motion.

Mr. BUTLER. Mr. Speaker, a parliamentary inquiry. Has the Chair decided the dispute; and if so, will the Chair stand by his decision? We are only wasting time.

The SPEAKER pro tempore. The Chair will put the motion for the previous question.

The question was taken; and on a division (demanded by Mr. MANN) there were 66 ayes and 30 noes.

Mr. MANN. I make the point of order that no quorum is present.

The SPEAKER pro tempore. Evidently there is no quorum present.

Mr. MANN. I move a call of the House.

The SPEAKER pro tempore. The gentleman from Illinois makes a point of no quorum and moves a call of the House. The Doorkeeper will close the doors; the Sergeant at Arms will notify absent Members. All those in favor of ordering the previous question will, when their names are called, answer "aye" and those opposed "no." The Clerk will call the roll.

The question was taken; and there were—yeas 183, nays 80, answered "present" 4, not voting 117, as follows:

YEAS—183.

Adair	Dies	Jones	Plumley
Adamson	Douglas	Kahn	Pou
Aiken	Draper	Kellher	Pray
Alexander, Mo.	Edwards, Ga.	Kinkaid, Nebr.	Prince
Alexander, N. Y.	Edwards, Ky.	Kitchin	Pujo
Ames	Ellerbe	Lamb	Rainey
Anderson	Ellis	Langley	Randell, Tex.
Ansberry	Elvins	Law	Rauch
Ashbrook	Englebright	Lawrence	Reeder
Austin	Estopinal	Lee	Richardson
Barchfeld	Finley	Legare	Robinson
Bartholdt	Flood, Va.	Lever	Rothermel
Bartlett, Nev.	Floyd, Ark.	Lindbergh	Rucker, Mo.
Beall, Tex.	Focht	Livingston	Saunders
Bell, Ga.	Foss	Lloyd	Shackelford
Boehne	Gainnes	Loud	Sheffield
Borland	Garner, Tex.	McCredie	Sheppard
Brantley	Garrett	McHenry	Sherwood
Broussard	Gillespie	McKinlay, Cal.	Sims
Burgess	Glass	McKinley, Ill.	Sisson
Burleson	Godwin	McKinney	Slemp
Burnett	Gordon	McLachlan, Cal.	Small
Byrd	Graff	McLaughlin, Mich.	Smith, Tex.
Byrns	Graham, Ill.	Macon	Southwick
Calderhead	Grant	Maguire, Nebr.	Sparkman
Candler	Hamlin	Malby	Stanley
Cantrill	Hammond	Martin, Colo.	Steenerson
Carlin	Hardwick	Martin, S. Dak.	Stephens, Tex.
Carter	Harrison	Massey	Sterling
Cary	Hawley	Mays	Sulzer
Clark, Mo.	Hay	Miller, Minn.	Talbott
Clayton	Hayes	Mitchell	Taylor, Ala.
Cline	Heflin	Mondell	Taylor, Colo.
Cole	Helm	Moon, Tenn.	Thomas, Ky.
Collier	Henry, Conn.	Moore, Pa.	Thomas, N. C.
Cowles	Henry, Tex.	Morgan, Okla.	Tou Velle
Cox, Ohio	Higgins	Morrison	Townsend
Craig	Hollingsworth	Morse	Turnbull
Creager	Howell, N. J.	Needham	Underwood
Crow	Hubbard, Iowa	Nicholls	Washburn
Currier	Hughes, Ga.	O'Connell	Watkins
Dawson	Hughes, N. J.	Oldcott	Webb
Dent	Hull, Tenn.	Oldfield	Weeks
Denver	Jamieson	Padgett	Wickliffe
Dickinson	Johnson, Ky.	Page	Woodyard
Dickson, Miss.	Johnson, S. C.	Pearre	

NAYS—80.

Anthony	Cooper, Pa.	Esch	Griest
Barnard	Cooper, Wis.	Fassett	Gurnsey
Bartlett, Ga.	Cox, Ind.	Ferris	Hanna
Bennet, N. Y.	Cullop	Fish	Hitchcock
Boutell	Dalzell	Fitzgerald	Houston
Burke, Pa.	Diekema	Fordney	Howell, Utah
Burke, S. Dak.	Dixon, Ind.	Foster, Ill.	Hull, Iowa
Butler	Dodds	Foster, Vt.	Johnson, Ohio
Campbell	Driscoll, M. E.	Fuller	Kendall
Cassidy	Durey	Garner, Pa.	Kennedy, Ohio
Chapman	Dwight	Good	Knapp

Korbly	Morgan, Mo.	Roberts	Taylor, Ohio
Klistermann	Moss	Rosenberg	Thistlewood
Langham	Moxley	Scott	Thomas, Ohio
Latta	Nelson	Smith, Iowa	Tilson
Longworth	Nye	Snapp	Volstead
McGuire, Okla.	Palmer, H. W.	Stafford	Vreeland
Madden	Parker	Stevens, Minn.	Wheeler
Mann	Parsons	Sulloway	Wiley
Miller, Kans.	Pickett	Tawney	Young, Mich.

Hubbard, W. Va.	ANSWERED "PRESENT"—4.	Young, N. Y.
Kopp	McCall	

NOT VOTING—117.

Allen	Gardner, Mass.	Keifer	Poindexter
Andrus	Gardner, Mich.	Kennedy, Iowa	Pratt
Barclay	Gardner, N. J.	Kinthead, N. J.	Ransdell, La.
Barnhart	Gill, Md.	Knowland	Reid
Bates	Gill, Mo.	Kronmiller	Rhinock
Bennett, Ky.	Gillett	Lafean	Riordan
Bingham	Goebel	Lenroot	Roddenbery
Bocher	Goldfogle	Lindsay	Rucker, Colo.
Bowers	Goulden	Lively	Sabath
Bradley	Graham, Pa.	Loudenslager	Sharp
Burleigh	Greene	Lowden	Sherley
Calder	Gregg	Lundin	Simmons
Capron	Hamer	McCreary	Slayden
Clark, Fla.	Hamill	McDermott	Smith, Cal.
Cocks, N. Y.	Hamilton	McMorran	Smith, Mich.
Conry	Hardy	Madison	Sperry
Coudrey	Haugen	Maynard	Spight
Covington	Havens	Millington	Sturgiss
Cravens	Heald	Moon, Pa.	Swasey
Crumpacker	Hill	Moore, Tex.	Wallace
Davidson	Hinsbaw	Morehead	Wanger
Davis	Hobson	Mudd	Weisse
Denby	Howard	Murdock	Willett
Driscoll, D. A.	Howland	Murphy	Wilson, Ill.
Dupre	Huff	Norris	Wilson, Pa.
Fairchild	Hughes, W. Va.	Olmsted	Wood, N. J.
Foelker	Humphrey, Wash.	Palmer, A. M.	Woods, Iowa
Fornes	Humphreys, Miss.	Patterson	
Fowler	James	Payne	
Gallagher	Joyce	Peters	

So the previous question was ordered.

The following pairs were announced:

For the session:

Mr. BRADLEY with Mr. GOULDEN.

Mr. ANDRUS with Mr. RIORDAN.

Mr. YOUNG of New York with Mr. FORNES.

Until further notice:

Mr. HUMPHREY of Washington with Mr. HARDY.

Mr. SIMMONS with Mr. MAYNARD.

Mr. HEALD with Mr. SLAYDEN.

Mr. FAIRCHILD with Mr. CRAVENS.

Mr. WOOD of New Jersey with Mr. PATTERSON.

Mr. SMITH of California with Mr. HOWARD.

Mr. PAYNE with Mr. LINDSAY.

Mr. BATES with Mr. GILL of Maryland.

Mr. MURDOCK with Mr. RHINOCK.

Mr. GARDNER of Michigan with Mr. MOORE of Texas.

Mr. CAPRON with Mr. CLINE.

Mr. HUGHES of West Virginia with Mr. WILLETT.

Mr. BINGHAM with Mr. BOWERS.

Mr. BURLEIGH with Mr. CLARK of Florida.

Mr. CALDER with Mr. CONRY.

Mr. CRUMPACKER with Mr. GALLAGHER.

Mr. DAVIDSON with Mr. GILL of Missouri.

Mr. DAVIS with Mr. GOLDFOGLE.

Mr. DENBY with Mr. GREGG.

Mr. GARDNER of New Jersey with Mr. HAMILL.

Mr. GILLETT with Mr. HAYENS.

Mr. GREEN with Mr. HOBSON.

Mr. HILL with Mr. HUMPHREYS of Mississippi.

Mr. HOWLAND with Mr. KINHEAD of New Jersey.

Mr. KENNEDY of Iowa with Mr. WALLACE.

Mr. KNOWLAND with Mr. PETERS.

Mr. KRONMILLER with Mr. REID.

Mr. LAFEAN with Mr. RUCKER of Colorado.

Mr. LOUDENSLAGER with Mr. SHARP.

Mr. LOWDEN with Mr. RODDENBERY.

Mr. MCMORRAN with Mr. SHERLEY.

Mr. MADISON with Mr. SPIGHT.

Mr. MILLINGTON with Mr. WILSON of Pennsylvania.

Mr. MOREHEAD with Mr. BARNHART.

Mr. OLMSTED with Mr. BOOHER.

Mr. SMITH of Michigan with Mr. LIVELY.

Mr. WILSON of Illinois with Mr. DANIEL A. DRISCOLL.

On this vote:

Mr. WANGER with Mr. KOPP.

Until February 20, noon:

Mr. MOON of Pennsylvania with Mr. WEISSE.

Mr. MCCREARY with Mr. DUPRE.

Mr. GRAHAM of Pennsylvania with Mr. A. MITCHELL PALMER.

Mr. MCCALL with Mr. JAMES.

Until February 21, noon:

Mr. MURPHY with Mr. COVINGTON.

Commencing February 10 and ending February 18, inclusive: Mr. JOYCE with Mr. RANDELL of Louisiana.

Commencing February 10 and ending February 20, inclusive: Mr. HUBBARD of West Virginia with Mr. SABATH.

Commencing February 21 and ending March 1:

Mr. SPERRY with Mr. McDERMOTT.

The result of the vote was then announced as above recorded.

The SPEAKER. The Doorkeeper will open the doors, and the question now is on agreeing to the conference report.

The conference report was agreed to.

Mr. BURKE of South Dakota. Mr. Speaker, I move to further insist on the disagreement of the House to the Senate amendment No. 48, and to consent to the request of the Senate for a further conference.

The SPEAKER. There seems to be three amendments here that are not disposed of.

Mr. BURKE of South Dakota. But may I not take them up one at a time?

The SPEAKER. Absolutely; but the conference is not asked until the amendments are disposed of.

Mr. BURKE of South Dakota. Then I call up amendment No. 48.

The SPEAKER. The Clerk will report the amendment to which the gentleman refers.

The Clerk read as follows:

Amendment No. 48, page 77, after line 3, insert:

"Any licensed trader in the Standing Rock Indian Agency of North and South Dakota, who has any claim against any Indian of said agency for goods sold to such Indian may file an itemized statement of said claim with the Indian superintendent. Said superintendent shall forthwith notify said Indian in writing of the filing of said claim and request him to appear within a reasonable time thereafter, to be fixed in said notice, and present any objections he may have to the payment thereof, or any offset or any counterclaim thereto.

"If said Indian appears and contests said claim, or any item therein, the said superintendent shall notify the said trader and fix a time for the settlement of the account between the parties thereto, and shall on a hearing thereof use his efforts to secure an agreement as to the amount due between the said parties. If the said Indian shall not appear within the time specified in the notice, the superintendent shall call in the said trader and carefully investigate every item of said account and determine the amount due thereon. Any account so settled by the superintendent or any such account admitted by the Indian shall be and remain an account stated between the parties thereto.

"That out of any moneys that shall thereafter become due to said Indian, by reason of any annuity or other indebtedness, from the Government of the United States, or for property sold by or on account of such Indian, there shall be paid by the superintendent to such trader at least 25 per cent of the money which would be due such Indian and 25 per cent of any money that may thereafter become due to such Indian until the account stated shall have been paid. And where the amount due said Indian shall be sufficient, in the judgment of said superintendent, to pay a greater amount of said indebtedness, still leaving said Indian sufficient for his ordinary needs, such superintendent shall use his influence to secure the payment of the whole or a greater proportion of said account: *Provided*, That such Indian may at any time appear and contest any item in the said account which he has not proved."

Mr. BURKE of South Dakota. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. BURKE of South Dakota. For the purpose of discussing this amendment and the motion I make that the House further insist on the disagreement to the Senate amendment No. 48.

Mr. MANN. Mr. Speaker, I move that the House concur in the Senate amendment.

Mr. CARLIN. Mr. Speaker—

Mr. HANNA. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman from North Dakota rise?

Mr. HANNA. Mr. Speaker, I was going to make the same motion that was made by the gentleman from Illinois—to recede and concur.

Mr. MANN. Then, Mr. Speaker, I will withdraw my motion, so that the gentleman from North Dakota may make the motion.

Mr. HANNA. Then, Mr. Speaker, I move to recede and concur in the Senate amendment.

The SPEAKER. The gentleman from North Dakota moves that the House do recede from its disagreement to the Senate amendments and concur in the same. That is a preferential motion to the motion of the gentleman from South Dakota, because that motion would bring the two bodies to an agreement.

Mr. CARLIN. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman from Virginia rise?

Mr. CARLIN. For the purpose of moving a substitute to that motion.

The SPEAKER. But the other motions are preferential motions.

Mr. CARLIN. My motion is to postpone the consideration of this entire conference report until the next legislative day.

Mr. MANN. Mr. Speaker, I make the point of order that that motion is not in order.

Mr. BURKE of South Dakota. That motion is not in order.

The SPEAKER. The Chair thinks that motion is not in order—is inclined to think so.

Mr. CARLIN. If we postpone it to a day certain, or the next legislative day?

Mr. MANN. The gentleman has not the floor.

The SPEAKER. The gentleman from Virginia said he desires to move a substitute.

Mr. MANN. The gentleman was not recognized for any other purpose.

Mr. CARLIN. I now desire to make a privileged motion.

The SPEAKER. The gentleman will state what his privileged motion is.

Mr. CARLIN. The motion is to postpone the consideration of this conference report until the next regular legislative day.

Mr. MANN. Mr. Speaker, I make the point of order that the gentleman can not take the gentleman from South Dakota from the floor.

The SPEAKER. The conference report has been agreed to. There are amendments pending outside of the report and they are before the House.

Mr. CARLIN. And I desire to postpone their consideration until the next legislative day.

Mr. MANN. I make the point of order, Mr. Speaker, that the gentleman can not take the gentleman from South Dakota off the floor for that purpose.

Mr. CARLIN. The gentleman from South Dakota has never been on the floor.

Mr. BURKE of South Dakota. The gentleman from South Dakota still has the floor.

The SPEAKER. The Chair has no doubt as to the priority of these motions. The gentleman from South Dakota [Mr. BURKE] was compelled to yield, having made his motion to further insist on the disagreement to the Senate amendment, to the preferential motion made by the gentleman from North Dakota [Mr. HANNA] that the House recede and concur. Both of those motions are preferential, but the one made by the gentleman from North Dakota was of the highest preference. The gentleman from Virginia now rises to another motion which he claims to be a preferential motion, namely, to postpone the consideration of this amendment.

Mr. CARLIN. Of all amendments.

The SPEAKER. Until the next legislative day. Then the gentleman from Illinois [Mr. MANN] makes the point of order that this motion is not such a preferential motion as may intervene between the motion of the gentleman from South Dakota and his right to the floor upon the same, or rather the right to the floor of the gentleman from South Dakota on the motion of the gentleman from North Dakota, because under the practice he would be entitled to the floor. The Chair will hear the gentleman from Illinois upon his point of order. The Chair desires, again, to direct the attention of the gentleman from Illinois to the situation. While the gentleman from South Dakota was recognized to make a privileged motion the gentleman from North Dakota made a preferential motion of a higher character. It is upon this matter the Chair would be glad to hear the gentleman from Illinois; that is, whether or not the motion made by the gentleman from Virginia [Mr. CARLIN] may intervene before the motion of the gentleman from North Dakota. The Chair will hear the gentleman from Illinois.

Mr. MANN. Mr. Speaker, the situation is this: The House passed the Indian appropriation bill. The Senate passed the bill with certain amendments. It comes to the House, the amendments are disagreed to in the House, and a conference is asked for, and the matter goes to conference. It now comes before the House on the conference report with certain items disagreed to.

The conference report has been agreed to as far as it goes, and thereupon the gentleman in charge of the bill moves that the House further insist upon its disagreement to Senate amendment numbered 48, and the gentleman from North Dakota moves that the House recede and concur in the Senate amendments, and the gentleman from Virginia claims the right to the floor for the purpose of moving a postponement to a day certain or a day uncertain—I do not know which it will be. There are only one or two motions in order. It has always been ruled that those motions which tend to bring the two Houses together shall be first in order. Now, the motion of the gentleman from North Dakota is the motion that brings the two Houses closest into union if it be agreed to. It seems to me it ought to take preference over the motion to postpone, which motion, of course, will be subject to debate, I suppose.

Mr. CARLIN. The gentleman can go on with his suppositions.

Mr. MANN. Now, it is perfectly certain that if the gentleman from Virginia had desired to make the motion for the previous question, he could not take the gentleman from South

Dakota off the floor for that purpose, but the motion for the previous question takes precedence of the motion to postpone; and if the gentleman from Virginia can not take the gentleman from South Dakota off the floor for the purpose of offering the motion demanding the previous question, how can he do it for the purpose of permitting a postponement of the matter? The rule is—

When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely, which several motions shall have precedence in the foregoing order.

Now, the motion for the previous question has precedence of the motion to postpone. It has been ruled time and time again that the gentleman in charge of a bill can not be taken off the floor during the hour to which he is entitled to recognition, for some one else to move the previous question. A moment ago when the gentleman from South Dakota had exhausted his hour the Chair recognized the gentleman from Tennessee to move the previous question, but would not recognize the gentleman from Tennessee or any other gentleman during the hour which the gentleman from South Dakota had under his right to be recognized.

The SPEAKER. The Chair will hear briefly the gentleman from Virginia.

Mr. CARLIN. Mr. Speaker, I do not care to be heard. I think it is a perfectly plain proposition, and I am ready for the Chair to rule.

The SPEAKER. Paragraph 4 of Rule XVI, page 383, of the Manual, says:

When a question is under debate no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely.

Now, this question is under debate. Two preferential motions have been made, one by the gentleman from South Dakota and one by the gentleman from North Dakota. Now the gentleman from Virginia makes another motion, applying to a different class of preference, because the other two motions were motions to bring the House to a disposition of these particular amendments, and may be said to be incidental to these amendments, but the motion of the gentleman from Virginia is to postpone to the next legislative day, and has relation not alone to this bill but to the general order of business in the House. He might have moved, if you choose, in the same order of motion, to postpone indefinitely or to lay on the table.

Now, on the question of laying on the table, which motion at this stage is of similar dignity, the Chair finds this precedent, which the Clerk will read, namely, section 5393, of volume 5 of Hinds' Precedents, where the whole question is so tersely and plainly put in the precedent that the Chair desires the Clerk to read it.

The Clerk read as follows:

On April 23, 1897, Mr. Richard P. Bland, of Missouri, appealed from a decision of the chair and announced his purpose to debate the appeal. Mr. Dingley, being recognized, moved to lay the appeal on the table. Mr. James D. Richardson, of Tennessee, made the point of order that the gentleman from Missouri, Mr. Bland, who had taken the appeal, was entitled to the floor to debate it, and could not be prevented by the motion to lay the appeal on the table.

The Speaker, in overruling the point of order, said: The appeal is debatable, unless the House decides otherwise. * * * The gentleman from Missouri was only on the floor to submit his appeal. Whether he should be recognized afterwards as having the floor to address the House involves a different recognition. * * * A privileged motion could come in between the two recognitions. * * * The House may, if it chooses, vote down the motion to lay the appeal on the table. If the House does not wish to hear debate, it need not hear it. * * * The House is not at the mercy of the individual member, or any member whatever. The vote of the House must decide the question. * * * If the House desires to hear the gentleman, it will vote down the proposition to lay the appeal on the table. If it does not desire to hear him * * * it will vote the other way.

The question being taken on Mr. Dingley's motion; there were—ayes 86, nays 75, present 23; so the appeal was laid on the table.

The SPEAKER. The Chair thinks the precedent is in point, and therefore overrules the point of order.

Mr. MANN. Mr. Speaker, I rise to make a privileged motion. I move to lay on the table the motion of the gentleman from Virginia [Mr. CARLIN].

Mr. CARLIN. Mr. Speaker, I make the point of order that the motion is not in order.

The SPEAKER. The Chair will hear the gentleman from Virginia [Mr. CARLIN].

Mr. CARLIN. It is a dilatory motion.

Mr. BURKE of South Dakota. I would like to make a parliamentary motion.

Mr. CARLIN. I make the point of order that the motion is dilatory.

The SPEAKER. It occurs to the Chair there is no evidence up to this point of delay.

Mr. BURKE of South Dakota. I desire to submit a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURKE of South Dakota. I would like to inquire, Mr. Speaker, if the motion of the gentleman from Illinois should prevail, what would become of the Senate amendment.

The SPEAKER. The Chair is inclined to think if the motion of the gentleman from Virginia [Mr. CARLIN] should prevail it would carry the whole bill over to the next legislative day.

Mr. BURKE of South Dakota. Yes; but, Mr. Speaker, the motion of the gentleman from Illinois, if that motion is entertained, is to lay the motion of the gentleman from Virginia [Mr. CARLIN] on the table. Now, if that motion prevails, what becomes of the amendment?

The SPEAKER. The Chair, upon the point of order as to the motion of the gentleman from Illinois, will have read the following precedent.

Mr. MANN. Mr. Speaker, I would like to be heard on the point of order, if the gentleman from Virginia [Mr. CARLIN] makes the point of order upon my motion.

Mr. LANGLEY. The Chair has already decided the point of order.

The SPEAKER. The Chair will hear the gentleman from Illinois [Mr. MANN] if he desires to be heard further.

Mr. MANN. I prefer to be heard.

Mr. SIMS. Let us hear that read first.

Mr. CARLIN. This confirms my point of order that the motion is dilatory.

The SPEAKER. At this stage that is overruled.

Mr. MANN. The rule which has already been read provides:

When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or to postpone indefinitely; which several motions shall have precedence in the foregoing order.

Now, in that order, the motion to lay on the table follows the motion to adjourn, and there are a number of motions ahead of the motion to postpone to a day certain. Under the ruling of the Chair, the motion for the previous question being prior to a motion to postpone indefinitely, it would be in order for me to move the previous question as well as a motion to lay on the table, or a motion to adjourn, ahead of the motion to postpone to a day certain.

I am not certain whether the motion to postpone to the next legislative day is a motion to postpone to a day certain, or to postpone to a day indefinitely, because the Lord only knows—nobody in this House knows—when the next legislative day occurs. Doubtless it may occur to-morrow, but it is uncertain.

Mr. HUGHES of New Jersey. Is not that sufficiently definite?

Mr. MANN. I say that the gentleman's motion to postpone to a day certain is uncertain.

Mr. BARTLETT of Georgia. Mr. Speaker, I rise to a point of order.

The SPEAKER. The gentleman from Georgia will state it.

Mr. BARTLETT of Georgia. I make the point, Mr. Speaker, that the gentleman from Illinois [Mr. MANN] has moved to lay the motion of the gentleman from Virginia [Mr. CARLIN] on the table, and he is now discussing that motion.

The SPEAKER. And the gentleman from Virginia [Mr. CARLIN] makes the point of order that that motion itself is not in order—

Mr. LANGLEY. Because it is dilatory.

Mr. MANN. If the motion of the gentleman from Virginia [Mr. CARLIN] is a motion to postpone indefinitely, then ahead of it comes a motion to postpone to a day certain, or to refer, or to amend. I do not desire, Mr. Speaker, in any way to detain the House beyond what is necessary, but—

The SPEAKER. The Clerk will read the precedent.

The Clerk read as follows:

On March 18, 1910, Mr. JOSEPH H. GAINES, of West Virginia, moved to postpone the pending subject of discussion to the next day.

Mr. OSCAR W. UNDERWOOD, of Alabama, moved to lay on the table the motion to postpone.

The Speaker expressed at first doubt as to whether or not the motion was in order, but decided to admit it.

The SPEAKER. The Clerk will read the note to the precedent.

The Clerk read as follows:

In some cases one privileged motion is not applicable to another. Thus it would undoubtedly not be in order to move to lay on the table a motion to adjourn or for the previous question, as they are not debatable or amendable. But as the motion to postpone is both debatable and amendable, there is an advantage in applying to it a motion to lay on the table.

The SPEAKER. The Chair entertains the motion of the gentleman from Illinois [Mr. MANN] to lay on the table the motion of the gentleman from Virginia [Mr. CARLIN].

Mr. BURKE of South Dakota. Now, Mr. Speaker, I renew my parliamentary inquiry—to know what the effect of that motion would be, if it prevails, on the pending motion?

The SPEAKER. It will not be necessary for the Chair to answer the parliamentary inquiry, except to say that if the House votes to lay the motion of the gentleman from Virginia [Mr. CARLIN] on the table, that would be done. It is safe not to attempt to cross a stream until you come to it.

Mr. FITZGERALD. Mr. Speaker, I desire to inquire whether the motion—

Mr. SHERLEY. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman from Kentucky [Mr. SHERLEY] will state it.

Mr. SHERLEY. The parliamentary inquiry is, Will the motion of the gentleman from Virginia [Mr. CARLIN] carry with it the motion made by the gentleman from North Dakota and that made by the gentleman from South Dakota?

The SPEAKER. Certainly not. They are entirely independent motions.

Mr. FITZGERALD. It would carry both of them. Mr. Speaker, would not the effect of this motion be to carry everything with it that is now pending?

The SPEAKER. The judgment of the Chair is no.

Mr. FITZGERALD. I submit to the Chair that under a universal line of rulings a motion to lay an amendment on the table carries all that with it.

The SPEAKER. That is not on all fours with this motion. A motion to reconsider may lay on the table, and is frequently made, as the gentleman from New York [Mr. FITZGERALD] is aware, without carrying anything with it. The question is on the motion of the gentleman from Illinois [Mr. MANN].

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 58, noes 66.

Mr. BURKE of South Dakota. Mr. Speaker, I make the point of no quorum present.

The SPEAKER. Evidently a quorum is not present. The Doorkeeper will close the doors and the Sergeant at Arms will notify absent Members. The question is on the motion of the gentleman from Illinois [Mr. MANN] to lay on the table the motion of the gentleman from Virginia [Mr. CARLIN]. As many as favor the motion, as their names are called, will answer "yea;" as many as are opposed will answer "nay;" and those who are present and not voting will answer "present."

The question was taken; and there were—yeas 86, nays 173, answered "present" 7, not voting 118, as follows:

YEAS—86.

Anthony	Englebright	Lowden	Scott
Barchfeld	Esch	McCredie	Sheffield
Barnard	Fassett	McGuire, Okla.	Sherley
Boutell	Flsh	McKinney	Simmons
Burke, Pa.	Fitzgerald	Madden	Smith, Iowa
Burke, S. Dak.	Foss	Madison	Snapp
Butler	Gaines	Malby	Stafford
Calderhead	Gardner, N. J.	Mann	Steenerson
Campbell	Garner, Pa.	Martin, S. Dak.	Sterling
Cassidy	Graff	Miller, Kans.	Stevens, Minn.
Cole	Hanna	Miller, Minn.	Sulloway
Cooper, Pa.	Henry, Conn.	Mondell	Swasey
Creager	Howell, N. J.	Morrison	Tawney
Currier	Howell, Utah	Moxley	Taylor, Ohio
Dalzell	Howland	Nelson	Tilson
Dawson	Hull, Iowa	Nye	Volstead
Diekema	Humphrey, Wash.	Palmer, H. W.	Vreeland
Draper	Kendall	Pickett	Wiley
Driscoll, M. E.	Kennedy, Iowa	Pratt	Wilson, Ill.
Durey	Kennedy, Ohio	Rauch	Woods, Iowa
Dwight	Lindbergh	Roberts	
Ellis	Loud	Rodenberg	

NAYS—173.

Adamson	Chapman	Garner, Tex.	Jamieson
Aiken	Clark, Mo.	Garrett	Johnson, Ky.
Alexander, Mo.	Clayton	Glass	Johnson, Ohio
Alexander, N. Y.	Cline	Godwin	Johnson, S. C.
Ames	Collier	Goebel	Jones
Anderson	Cooper, Wis.	Gordon	Kahn
Ansberry	Cowles	Graham, Ill.	Kellher
Ashbrook	Cox, Ind.	Hamlin	Kinkaid, Nebr.
Austin	Cox, Ohio	Hammond	Kitchin
Bartholdt	Craig	Hardwick	Knowland
Bartlett, Ga.	Crumpacker	Hardy	Korby
Beall, Tex.	Cullop	Harrison	Kuftermann
Bell, Ga.	Dent	Haugen	Lamb
Bennet, N. Y.	Denver	Havens	Langham
Bingham	Dickinson	Hawley	Langley
Boehne	Dickson, Miss.	Hay	Latta
Borland	Dies	Hayes	Law
Brantley	Douglas	Hefflin	Lawrence
Broussard	Driscoll, D. A.	Helm	Lee
Burgess	Edwards, Ga.	Henry, Tex.	Legare
Burleson	Edwards, Ky.	Higgins	Lever
Burnett	Ellerbe	Hitchcock	Livingston
Byrd	Elvins	Hobson	Lloyd
Byrns	Estopinal	Hollingsworth	McHenry
Calder	Ferris	Houston	McKinlay, Cal.
Candler	Finley	Hubbard, Iowa	McLachlan, Cal.
Cantrill	Flood, Va.	Hughes, Ga.	McLaughlin, Mich.
Carlin	Floyd, Ark.	Hughes, N. J.	Macon
Carter	Focht	Hull, Tenn.	Maguire, Nebr.
Cary	Foster, Ill.	Humphreys, Miss.	Martin, Colo.

Massey	Page	Saunders	Taylor, Ala.
Maynard	Parsons	Shackelford	Thomas, Ky.
Mays	Pearre	Sheppard	Thomas, N. C.
Mitchell	Peters	Sherwood	Tou Velle
Moon, Tenn.	Poindexter	Sims	Townsend
Morgan, Mo.	Prince	Sisson	Turnbull
Morgan, Okla.	Pujo	Slemp	Washburn
Morse	Ralney	Small	Watkins
Moss	Randell, Tex.	Smith, Tex.	Webb
Needham	Richardson	Sparkman	Wickliffe
Nicholls	Robinson	Stanley	Woodyard
O'Connell	Rothermel	Stephens, Tex.	
Oldfield	Rucker, Colo.	Sulzer	
Padgett	Rucker, Mo.	Talbott	

ANSWERED "PRESENT"—7.

Goulden	Kopp	Pou	Young, N. Y.
Hubbard, W. Va.	McCall	Taylor, Colo.	

NOT VOTING—118.

Adair	Foster, Vt.	Kinhead, N. J.	Pray
Allen	Fowler	Knapp	Ransdell, La.
Andrus	Fuller	Kronmiller	Reeder
Barnley	Gallagher	Lafean	Reld
Barnhart	Gardner, Mass.	Lenroot	Rhinock
Bartlett, Nev.	Gardner, Mich.	Lindsay	Riordan
Bates	Gill, Md.	Lively	Roddenbery
Bennett, Ky.	Gill, Mo.	Longworth	Sabath
Boohar	Gillespie	Loudenslager	Sharp
Bowers	Gillett	Lundin	Slayden
Bradley	Goldfogle	McCreary	Smith, Cal.
Burleigh	Good	McDermott	Smith, Mich.
Capron	Graham, Pa.	McKinley, Ill.	Southwick
Clark, Fla.	Grant	McMorran	Sperry
Cocks, N. Y.	Greene	Millington	Spight
Conry	Gregg	Moon, Pa.	Sturgiss
Coudrey	Griest	Moore, Pa.	Thistlewood
Covington	Guernsey	Moore, Tex.	Thomas, Ohio
Cravens	Hamer	Morehead	Underwood
Crow	Hamill	Mudd	Wallace
Davidson	Hamilton	Murdock	Wanger
Davis	Heald	Murphy	Weeks
Denby	Hill	Norris	Weisse
Dixon, Ind.	Hinshaw	Olcott	Wheeler
Dodds	Howard	Olmsted	Willett
Dupre	Huff	Palmer, A. M.	Wilson, Pa.
Fairchild	Hughes, W. Va.	Parker	Wood, N. J.
Foelker	James	Patterson	Young, Mich.
Fordney	Joyce	Payne	
Fornes	Kelfer	Plumley	

So the motion was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. OLCOTT with Mr. GALLAGHER.

Mr. DENBY with Mr. CONY.

Mr. SOUTHWICK with Mr. BOWERS.

Mr. GILLETT with Mr. UNDERWOOD.

Mr. GARDNER of Massachusetts with Mr. TAYLOR of Colorado.

Mr. MCKINLEY of Illinois with Mr. RODDENBERY.

Mr. LAFEAN with Mr. SPIGHT.

Mr. KNAPP with Mr. WALLACE.

Mr. GRIEST with Mr. GILLESPIE.

Mr. FOSTER of Vermont with Mr. DIXON of Indiana.

Mr. FORDNEY with Mr. BARTLETT of Nevada.

Mr. MCMORRAN with Mr. PUJO.

From to-day until Monday noon:

Mr. MOORE of Pennsylvania with Mr. GREGG.

On this vote:

Mr. WANGER with Mr. KOPP.

Mr. CARLIN. Mr. Speaker, I demand the previous question.

Mr. HUGHES of New Jersey. I move that further proceedings under the call be dispensed with.

The SPEAKER. There will be no rights lost that are due to any Member under the rules of the House. A quorum is present, and the doorkeepers will open the doors.

Mr. CARLIN. Mr. Speaker, I demand the previous question on my motion.

Mr. BURKE of South Dakota. I desire to be recognized, Mr. Speaker, for the purpose of debating the motion.

Mr. MANN. Mr. Speaker, I submit—

Mr. CARLIN. I submit that I have the floor. The previous question is not debatable.

Mr. MANN. I submit that the gentleman in charge of the bill is always entitled to the floor on a motion, although the motion may have preferential rights.

Mr. BURKE of South Dakota. And the motion is debatable.

Mr. MANN. Mr. Speaker, on page 366 of the Manual, toward the bottom of the page, in reference to recognition, it says—

But a Member may not, by offering a debatable motion of higher privilege than the pending motion, deprive the Member in charge of the bill of possession of the floor for debate—

referring to precedents in the Parliamentary Precedents. That is a clear statement of the situation. Now, on page 367 is a statement of the case when the right of recognition passes from the Member in charge of the bill to the opposition. That is:

When an essential motion made by a Member in charge of the bill is decided adversely, the right to prior recognition passes to the Mem-

ber leading the opposition to the motion. The control of the measure passes under this principle when the House disagrees to the recommendation of the committee reporting the bill; when the Committee of the Whole reports a bill adversely; and, in most cases, when the House disagrees to a conference report.

Now, there has been no essential motion made by the gentleman in charge of the bill which has been defeated or which has been voted upon. The gentleman in charge of the bill made a motion that the House agree to the conference report, and that was agreed to. Thereupon the gentleman in charge of the bill made a motion about a pending amendment which was in disagreement; that motion has not yet been presented to the House for consideration, and if it had, even, on that question, on the next amendment the gentleman in charge of the bill would be entitled to recognition.

Now, there comes, intervening between the agreement to the conference report and the motion of the gentleman on the next amendment, a preferential motion which is debatable, made by the gentleman from Virginia. But the Manual expressly states that that does not take the gentleman from South Dakota off the floor for controlling the time for debate. For instance, suppose it did, and I was endeavoring to do what the gentleman from Virginia is endeavoring to do—delay the House and consume time—and I had made a preferential motion to the motion of the gentleman from Virginia and demanded the floor for an hour to discuss that motion. Suppose the gentleman from Virginia, now, in his efforts to consume the time of the House consumes the hour, whoever obtained the floor is entitled to discuss the question, keeping the gentleman in charge of the bill from the floor and keeping the matter from coming to a vote. The Chair can readily see what a power to filibuster that would be, because the motion to postpone is always in order under the ruling of the Chair.

Mr. CARLIN. Will the gentleman yield for a moment?

Mr. MANN. For an hour, if the gentleman desires.

Mr. CARLIN. The gentleman is so anxious not to consume the time of the House; I suppose he would not really do that.

Mr. MANN. I am anxious not to consume the time of the House unnecessarily.

Mr. CARLIN. Does not the gentleman know that the chairman of this committee yielded the floor to the gentleman from North Dakota [Mr. HANNA] to make a privileged motion, and therefore surrendered his right to the floor?

Mr. MANN. The gentleman is mistaken. The gentleman from South Dakota made a motion, and the gentleman from North Dakota offered a preferential motion.

Mr. CARLIN. The record will show that he has yielded the floor for that motion to be made.

Mr. MANN. That is all nonsense.

Mr. CARLIN. It may be nonsense; but it is a fact.

Mr. MANN. The gentleman from Virginia takes the gentleman off the floor to make his motion. In either case the gentleman from South Dakota is entitled to the floor. It is a similar case to this. If the gentleman from South Dakota makes a motion to insist upon the disagreement of the House to the Senate amendment and the gentleman from North Dakota makes a preferential motion to recede and concur, who is entitled to the floor, then? I have heard it ruled here 40 times or more that the gentleman in charge of the bill was entitled to the floor, although there was a preferential motion made to recede and concur, when the motion of the gentleman in charge of the bill was to insist on the disagreement.

Mr. CARLIN. If the gentleman's position be correct—

Mr. MANN. Which it is.

Mr. CARLIN. Then the motion to lay on the table could not have been entertained and ought not to have been voted upon.

Mr. MANN. That is a piece of logic which I have not yet appreciated.

Mr. CARLIN. That took the gentleman off the floor, did it not?

Mr. SIMS. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Tennessee.

Mr. SIMS. The gentleman has intimated that there is a filibuster going on on this side to consume time. [Laughter.] Let me ask the gentleman a straight question, or rather state the position so that there will be no mistake about it. It is well known, Mr. Speaker, by the gentleman from Illinois that this is the last day on which any private claim can be considered, that is reported by either the Committee on Claims or the Committee on War Claims. Now, it is very evident to every Member of this House—

Mr. SHERLEY. Mr. Speaker, I demand the regular order.

Mr. SIMS. Mr. Speaker, I am in order. It is very evident to every Member of this House that all of this time is being consumed—

Mr. SHERLEY. Mr. Speaker, I demand the regular order.

Mr. SIMS. To keep the other matters I have referred to from being considered, and further, the gentleman from Kentucky is not in order in making the point of order, or it may be that it is because the gentleman does not want the country to know the facts.

Mr. MANN. The gentleman is killing time.

Mr. LANGLEY. Why did not the gentleman say that sooner?

Mr. SIMS. We are not killing time.

The SPEAKER. What is the point of order the gentleman from Kentucky makes?

Mr. SHERLEY. There is no point of order now, because the violation of the rule has ceased.

The SPEAKER. The Chair is prepared to rule. The Chair desires to call attention to the general proposition—that a Member may not, by offering a motion of higher privilege than the pending motion, deprive a member of the committee in charge of the bill of the floor.

That arises from a series of rulings relating entirely to motions inhering in the particular bill, to enable the House, as promptly as possible, to deal with Senate amendments to House bills. Now, the ruling has been uniform that a Member can not take another in charge of a conference report off the floor by making a preferential motion touching the amendments of the other body. But this motion belongs to an entirely different class of motions; that is, motions that affect the general business of the House. It ought to be in the power of the House to consider the Senate amendments to a conference report, and it ought to be in the power of a majority of the House to postpone their consideration with as little delay as practicable under the rules, and the construction given to the rules by the Chair and the precedents heretofore made. Now, the gentleman from Virginia makes this preferential motion, and is the proposer and mover of the motion that this House shall not consider these amendments, if it be agreed to to-day, but on the next legislative day. That in no way affects the manner of dealing with the Senate amendments to the bill. Therefore if the gentleman in charge of the conference report should be entitled to the floor, he would be entitled to the floor for an hour touching a motion that does not affect the disposition of the Senate amendments to the House bill, but which does tend to determine, and does determine, or give the majority of the House the power to determine, whether they will consider it to-day or to-morrow. The Chair therefore recognizes the gentleman from Virginia to move the previous question on the motion to postpone.

Mr. CARLIN. Mr. Speaker, I move the previous question on the motion to postpone.

The question was taken, and the Chair announced that the Chair was in doubt.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The Chair will test. Upon this vote the ayes are 115 and the noes are 41. The point of not quorum being made—

Mr. MANN. Mr. Speaker, I made the point of order that there was no quorum present.

The SPEAKER. The vote, as well as the observation of the Chair, shows that a quorum is not present.

Mr. RUCKER of Missouri. Mr. Speaker, a parliamentary inquiry. Is it proper for the gentleman just to keep up this performance of calling for no quorum time after time and—

Mr. MANN. It is not only proper, but you will have to keep a quorum here.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members; those in favor of ordering the previous question will, when their names are called, answer "aye," those opposed "no," those present and not voting will answer "present," and the Clerk will call the roll. One moment. The Chair states in answer to the parliamentary inquiry of the gentleman that a quorum, under the Constitution, must be present or business can not proceed.

Mr. RUCKER of Missouri. Mr. Speaker, another parliamentary inquiry.

The SPEAKER. The Clerk will call the roll.

The question was taken; and there were—yeas 172, nays 80, answered "present" 4, not voting 128, as follows:

YEAS—172.

Adair	Beall, Tex.	Carlín	Cox, Ind.
Adamson	Bell, Ga.	Carter	Cox, Ohio
Alken	Bennet, N. Y.	Chapman	Craig
Alexander, Mo.	Borland	Clark, Mo.	Creager
Alexander, N. Y.	Burke, Pa.	Clayton	Cullop
Anderson	Burleson	Cline	Dent
Ashbrook	Burnett	Cole	Denver
Austin	Byrns	Collier	Dickinson
Barnhart	Candler	Cooper, Wis.	Dickson, Miss.
Bartlett, Ga.	Cantrill	Cowles	Diekema

Dies	Heflin	Maguire, Nebr.	Rucker, Colo.
Dodds	Helm	Malby	Rucker, Mo.
Driscoll, D. A.	Henry, Tex.	Martin, Colo.	Shackelford
Driscoll, M. E.	Hitchcock	Martin, S. Dak.	Sheppard
Edwards, Ga.	Hollingsworth	Maynard	Sherley
Edwards, Ky.	Houston	Mays	Sherwood
Ellerbe	Hughes, Ga.	Mitchell	Sims
Elvins	Hughes, N. J.	Moon, Tenn.	Sisson
Estopinal	Hull, Tenn.	Morgan, Mo.	Slomp
Ferris	Jamieson	Morgan, Okla.	Small
Finley	Johnson, Ky.	Morrison	Smith, Tex.
Fitzgerald	Johnson, Ohio	Morse	Sparkman
Flood, Va.	Johnson, S. C.	Moss	Spight
Floyd, Ark.	Jones	Nicholls	Stanley
Foster, Ill.	Kelher	O'Connell	Stephens, Tex.
Gardner, Mass.	Kinkaid, Nebr.	Olcott	Sterling
Garner, Pa.	Kitchin	Oldfield	Sulloway
Garner, Tex.	Knowland	Padgett	Talbot
Garrett	Korbly	Page	Taylor, Ala.
Glass	Lamb	Parsons	Taylor, Colo.
Godwin	Langham	Pearre	Thistlewood
Good	Langley	Peters	Thomas, Ky.
Gordon	Latta	Pickett	Thomas, N. C.
Graham, Ill.	Law	Plumley	Tou Velle
Grant	Lee	Prince	Townsend
Hamlin	Legare	Pujo	Turnbull
Hammond	Lever	Rainey	Underwood
Hardy	Livingston	Randell, Tex.	Wallace
Harrison	Lloyd	Rauch	Washburn
Havens	McHenry	Richardson	Watkins
Hawley	McLachlan, Cal.	Robinson	Webb
Hay	McLaughlin, Mich.	Rothermel	Wickliffe
Hayes	Macon		Young, Mich.

NAYS—80.

Ames	Englebright	Keller	Palmer, H. W.
Andrus	Fassett	Kendall	Parker
Anthony	Fish	Kennedy, Iowa	Pratt
Barchfeld	Fordney	Küstermann	Pray
Barnard	Foss	Lawrence	Reeder
Bingham	Fuller	Lindbergh	Roberts
Boutell	Gardner, N. J.	Longworth	Smith, Iowa
Burke, S. Dak.	Goebel	Lowden	Snapp
Butler	Graff	McGuire, Okla.	Stafford
Campbell	Greene	McKinley, Ill.	Steenerson
Cassidy	Guernsey	McKinney	Stevens, Minn.
Cocks, N. Y.	Hanna	Madden	Swasey
Cooper, Pa.	Henry, Conn.	Madison	Taylor, Ohio
Crumpacker	Hill	Mann	Thomas, Ohio
Currier	Hinshaw	Miller, Minn.	Tilson
Dalzell	Howell, N. J.	Moxley	Volstead
Dawson	Howell, Utah	Needham	Vreeland
Draper	Howland	Nelson	Wheeler
Dwight	Hull, Iowa	Norris	Wiley
Ellis	Humphrey, Wash.	Nye	Woods, Iowa

ANSWERED "PRESENT"—4.

Goulden	Hubbard, W. Va.	Kopp	McCall
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NOT VOTING—128.

Allen	Durey	James	Payne
Ansberry	Esch	Joyce	Polndexter
Barclay	Fairchild	Kahn	Pou
Bartholdt	Focht	Kennedy, Ohio	Ransdell, La.
Bartlett, Nev.	Foelker	Kinkaid, N. J.	Reid
Bates	Fornes	Knapp	Rhinock
Bennett, Ky.	Foster, Vt.	Kronmiller	Riordan
Boehne	Fowler	Lafean	Roddenberry
Booher	Gaines	Lenroot	Rodenberg
Bowers	Gallagher	Lindsay	Sabath
Bradley	Gardner, Mich.	Lively	Saunders
Brantley	Gill, Md.	Loud	Scott
Broussard	Gill, Mo.	Loudenslager	Sharp
Burgess	Gillespie	Lundin	Sheffield
Burleigh	Gillet	McCready	Simmons
Byrd	Goldfogle	McCreedy	Slayden
Calder	Graham, Pa.	McDermott	Smith, Cal.
Calderhead	Gregg	McKinlay, Cal.	Smith, Mich.
Capron	Griest	McMorran	Southwick
Cary	Hammer	Miller, Kans.	Sperry
Clark, Fla.	Hamill	Millington	Sturgiss
Conry	Hamilton	Mondell	Sulzer
Coudrey	Hardwick	Moon, Pa.	Tawney
Covington	Haugen	Moore, Pa.	Wanger
Cravens	Heald	Moore, Tex.	Weeks
Crow	Higgins	Morehead	Wells
Davidson	Hobson	Mudd	Willett
Davis	Howard	Murdock	Wilson, Ill.
Denby	Hubbard, Iowa	Murphy	Wilson, Pa.
Dixon, Ind.	Huff	Olmsted	Wood, N. J.
Douglas	Hughes, W. Va.	Palmer, A. M.	Woodyard
Dupre	Humphreys, Miss.	Patterson	Young, N. Y.

So the previous question was ordered.

The Clerk announced the following additional pairs:

On this vote:

Mr. WANGER with Mr. KOPP.

Until further notice:

Mr. LOUD with Mr. RIORDAN.

Mr. DOUGLAS with Mr. RODDENBERRY.

Mr. BARTHOLDT with Mr. ANSBERRY.

Mr. CALDERHEAD with Mr. BURGESS.

Mr. CARY with Mr. CLARK of Florida.

Mr. DENBY with Mr. HUMPHREYS of Mississippi.

Mr. FOCHT with Mr. SULZER.

Mr. HIGGINS with Mr. BRANTLEY.

Mr. KAHN with Mr. BOEHNE.

Mr. McMORRAN with Mr. BYRD.

Mr. RODENBERG with Mr. BROUSSARD.

Mr. SIMMONS with Mr. HOBSON.

Mr. TAWNEY with Mr. GALLAGHER.

Mr. WEEKS with Mr. SAUNDERS.

For the session:

Mr. MOREHEAD with Mr. POU.

Mr. WOODYARD with Mr. HARDWICK.

The SPEAKER. Upon this vote the ayes are 172, the noes 80, present 4—a quorum. The Doorkeeper will open the doors; the ayes have it, and the previous question is ordered.

Mr. BURKE of South Dakota. Mr. Speaker, I desire to have the motion reported.

The SPEAKER. The motion is to postpone the consideration of the Senate amendment until the next legislative day.

Mr. BURKE of South Dakota. May the motion be reported?

Mr. CLAYTON. It is not debatable, is it, Mr. Speaker?

The SPEAKER. The previous question is ordered. There is nothing in order now except to vote on the motion, and the motion is to postpone the consideration of the Senate amendments to the pending bill until the next legislative day.

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. If there should be no other legislative day than this at this session, would it be possible to reconsider the vote so as to get at the Indian appropriation bill?

The SPEAKER. The Chair supposes a motion to reconsider might be entered to-day or to-morrow.

The question is on the motion of the gentleman from Virginia [Mr. CARLIN].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I demand a division.

The House divided; and there were—ayes 150, noes 60.

Mr. MANN. Mr. Speaker, I ask for tellers.

Mr. LIVINGSTON. Mr. Speaker, I make the point of order that the gentleman from Illinois [Mr. MANN] is filibustering and delaying the business of the House.

Mr. MANN. Mr. Speaker, I demand tellers.

Mr. LIVINGSTON. I make the point of order.

The SPEAKER. The Chair thinks the Constitution does not say anything about providing for tellers. The Chair will ask the gentleman from Illinois if he doubts the count, or is the proposition dilatory?

Mr. MANN. Oh, Mr. Speaker, I am in earnest about this.

The SPEAKER. The Chair knows that the gentleman is in earnest.

Mr. MANN. I withdraw the demand for tellers, and ask for the yeas and nays.

Mr. LIVINGSTON. And, Mr. Speaker, I make the same point of order.

The SPEAKER. The demand for the yeas and nays is a constitutional privilege that no rule or anything else can dispense with, and has never been ruled as dilatory. The gentleman from Illinois [Mr. MANN] demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 75, answered "present" 6, not voting 131, as follows:

YEAS—173.

Adair	Collier	Hamlin	McLachlan, Cal.
Adamson	Cooper, Wis.	Hardy	McLaughlin, Mich.
Alken	Cowles	Harrison	Macon
Alexander, Mo.	Cox, Ind.	Haugen	Madden
Alexander, N. Y.	Cox, Ohio	Havens	Maguire, Nebr.
Ames	Craig	Hay	Mann
Anderson	Cullop	Hayes	Martin, Colo.
Ansberry	Davidson	Heflin	Massey
Ashbrook	Dawson	Helm	Maynard
Austin	Dent	Henry, Tex.	Mays
Barnhart	Denver	Hitchcock	Mitchell
Bartlett, Ga.	Dickinson	Hollingsworth	Moon, Tenn.
Beall, Tex.	Dickson, Miss.	Houston	Morgan, Mo.
Bell, Ga.	Dies	Hubbard, Iowa	Morgan, Okla.
Bennet, N. Y.	Dixon, Ind.	Hughes, Ga.	Morse
Boehne	Driscoll, D. A.	Hughes, N. J.	Moss
Booher	Driscoll, M. E.	Hull, Tenn.	Nicholls
Borland	Edwards, Ga.	Jamieson	O'Connell
Bowers	Edwards, Ky.	Johnson, Ky.	Oldfield
Brantley	Ellerbe	Johnson, Ohio	Padgett
Broussard	Elvins	Johnson, S. C.	Page
Burgess	Estopinal	Jones	Parsons
Burleson	Ferris	Kellher	Pearre
Burnett	Finley	Kinkaid, Nebr.	Peters
Byrd	Flood, Va.	Kitchin	Plumley
Byrns	Floyd, Ark.	Kopp	Prince
Candler	Foster, Ill.	Korbly	Pujo
Cantrill	Gardner, Mass.	Lamb	Rainey
Carlin	Garner, Tex.	Langham	Randell, Tex.
Carter	Garrett	Langley	Richardson
Chapman	Glass	Law	Robinson
Cary	Godwin	Lee	Rothermel
Clark, Fla.	Good	Legare	Rucker, Colo.
Clayton	Gordon	Lively	Rucker, Mo.
Cline	Graham, Ill.	Livingston	Shackelford
Cocks, N. Y.	Grant	Lloyd	Sheppard
Cole	Greene	McHenry	Sherley

Sherwood
Sims
Sisson
Slomp
Small
Smith, Tex.
Spight

Stanley
Stephens, Tex.
Sulloway
Talbot
Taylor, Ala.
Thistlewood
Thomas, Ky.

Thomas, N. C.
Tou Velle
Townsend
Turnbull
Underwood
Wallace
Washburn

Watkins
Webb
Weeks
Wickliffe

NAYS—75.

Anthony
Barchfeld
Barnard
Burke, Pa.
Burke, S. Dak.
Campbell
Cassidy
Cooper, Pa.
Creager
Crumacker
Currier
Dalzell
Diekema
Douglas
Draper
Dwight
Ellis
Englebright
Esch

Fassett
Fish
Fitzgerald
Fordney
Foss
Gardner, N. J.
Graft
Hanna
Hinshaw
Howell, Utah
Howland
Hull, Iowa
Humphrey, Wash.
Kelser
Kendall
Kennedy, Iowa
Küstermann
Latta
Lawrence

Longworth
Lowden
McGuire, Okla.
McKinley, Ill.
McKinney
Madison
Malby
Martin, S. Dak.
Miller, Minn.
Morrison
Moxley
Needham
Nelson
Norris
Nye
Olcott
Palmer, H. W.
Pratt
Rau

Reeder
Roberts
Rodenberg
Simmons
Snapp
Stafford
Steenserson
Sterling
Stevens, Minn.
Tawney
Taylor, Ohio
Thomas, Ohio
Tilson
Volstead
Wiley
Wilson, Ill.
Woods, Iowa

ANSWERED "PRESENT"—6.

Goulden
Hubbard, W. Va.

Lindbergh
McCall

Pickett

Young, N. Y.

NOT VOTING—131.

Allen
Andrus
Barclay
Bartholdt
Bartlett, Nev.
Bates
Bennett, Ky.
Bingham
Boutell
Bradley
Burleigh
Butler
Calder
Calderhead
Capron
Clark, Mo.
Conry
Coudrey
Covington
Cravens
Crow
Davis
Denby
Dodd
Dupre
Durey
Fairchild
Focht
Foelker
Fornes
Foster, Vt.
Fowler
Fuller

Gaines
Gallagher
Gardner, Mich.
Garner, Pa.
Gill, Md.
Gill, Mo.
Gillespie
Gillett
Goebel
Goldfogle
Graham, Pa.
Gregg
Griest
Guernsey
Hamer
Hamill
Hamilton
Hammond
Hardwick
Hawley
Heald
Henry, Conn.
Higgins
Hill
Hobson
Howard
Howell, N. J.
Huff
Hughes, W. Va.
Humphreys, Miss.
James
Joyce
Kahn

Kennedy, Ohio
Kinkead, N. J.
Knapp
Knowland
Kronmiller
Lafean
Lenroot
Lever
Lindsay
Loud
Loudenslager
Lundin
McCreary
McCredie
McDermott
McKinlay, Cal.
McMoran
Miller, Kans.
Millington
Mondell
Moon, Pa.
Moore, Pa.
Moore, Tex.
Morehead
Mudd
Murdock
Murphy
Olmsted
Palmer, A. M.
Farker
Fatterson
Payne
Poindexter

Pou
Pray
Ransdell, La.
Reid
Rhinoek
Riordan
Rodenbery
Sabath
Saunders
Scott
Sharp
Sheffield
Slayden
Smith, Cal.
Smith, Iowa
Smith, Mich.
Southwick
Sparkman
Sperry
Sturgiss
Sulzer
Swasey
Taylor, Colo.
Vreeland
Wanger
Weisse
Wheeler
Willett
Wilson, Pa.
Wood, N. J.
Woodyard
Young, Mich.

So the motion was agreed to.

The Clerk announced the following additional pairs:

For the session:

Mr. ANDRUS with Mr. RIORDAN.

Until further notice:

Mr. YOUNG of Michigan with Mr. SPARKMAN.

Mr. BARTHOLDT with Mr. CLARK of Missouri.

Mr. BINGHAM with Mr. GILL of Missouri.

Mr. BUTLER with Mr. GALLAGHER.

Mr. FOSTER of Vermont with Mr. SAUNDERS.

Mr. GILLET with Mr. HAMILL.

Mr. GUERNSEY with Mr. HAMMOND.

Mr. HAWLEY with Mr. HOBSON.

Mr. HILL with Mr. TAYLOR of Colorado.

Mr. HOWELL of New Jersey with Mr. LEVER.

For the balance of day:

Mr. BOUTELL with Mr. RODDENBERRY.

On this vote:

Mr. WANGER with Mr. KOPP.

Mr. MANN. Mr. Speaker, I desire to change my vote.

The SPEAKER. The Clerk will call the gentleman's name.

The name of the gentleman from Illinois [Mr. MANN] was called, and he answered "aye."

The result of the vote was announced as above recorded.

Mr. MANN. Mr. Speaker, I enter a motion to reconsider.

Mr. LIVINGSTON. On that, Mr. Speaker, I make the point of order that it is dilatory.

Mr. CARLIN. Mr. Speaker, I make the point that this is dilatory. I move to lay on the table the motion of the gentleman from Illinois [Mr. MANN].

Mr. MANN. If the gentleman wishes to have the matter disposed of, I will make the motion.

Mr. CARLIN. Let the gentleman from Illinois [Mr. MANN] go ahead and make the motion, unless the gentleman will agree at some time to call it up.

The SPEAKER. And that motion, which the gentleman from Illinois [Mr. MANN] enters, the gentleman from Virginia [Mr. CARLIN] moves to lay on the table, as the Chair understands the gentleman.

Mr. CARLIN. The Chair understood me exactly aright.

The SPEAKER. The question is on the amendment of the gentleman from Virginia [Mr. CARLIN] to lay on the table the motion of the gentleman from Illinois [Mr. MANN] to reconsider the vote.

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 131, noes 41.

Mr. MANN. Mr. Speaker, I make the point of order that there is not a quorum present.

Mr. SHERLEY. Mr. Speaker, I make the point that that is dilatory.

Mr. BARTLETT of Georgia. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman from Georgia will state it. Mr. BARTLETT of Georgia. Did not the roll call, just completed about six minutes ago, show the presence of a quorum?

The SPEAKER. The Chair will answer yes, it did. What was the point of the gentleman from Kentucky [Mr. SHERLEY]?

Mr. SHERLEY. The point is, Mr. Speaker, that the motion of the gentleman was dilatory.

The SPEAKER. The Chair is of the opinion that the point is well taken.

Mr. MANN. Does the Chair hold that there is a quorum present?

The SPEAKER. The roll call which was just taken showed the presence of 170 yeas and 90 nays—more than a quorum.

Mr. MANN. I call the attention of the Chair to the fact that there was a vote since that time—a standing vote—which showed that practically every Member of the House voted.

SEVERAL MEMBERS. No! No!

Mr. CARLIN. Mr. Speaker, I call the attention of the Chair to the fact that the Chair has already ruled.

The SPEAKER. It occurs to the Chair that the point is well made.

Mr. MANN. Then, Mr. Speaker, I rise to present a privileged conference report under the rule.

The SPEAKER. The Chair will say that on the last vote the yeas have it, and the motion to lay on the table prevails.

For what purpose does the gentleman from Illinois rise?

BRIDGES ACROSS CHARLES RIVER, MASS.

Mr. MANN. Mr. Speaker, I submit the following conference report on the bill (H. R. 26150) to authorize the cities of Boston and Cambridge, Mass., to construct drawless bridges across the Charles River between the cities of Cambridge and Boston, in the State of Massachusetts, for printing under the rule.

The conference report (No. 2183) and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 26150) to authorize the cities of Boston and Cambridge, Mass., to construct drawless bridges across the Charles River, between the cities of Cambridge and Boston, in the State of Massachusetts, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to section 1 of the bill, and agree to the same with an amendment as follows, to wit: Strike out of the Senate amendment the following:

“Provided, further, That the State of Massachusetts shall, within a reasonable time after the completion of said bridges, or any of them, by legislative enactment provide for adequate compensation to the owner or owners of wharf property now used as such on said river above any of said bridges, for damages, if any, sustained by said property by reason of interference with access by water to said property now enjoyed, because of the construction of said bridges without a draw.”

And insert in lieu thereof the following:

“Provided further, That before the construction of said bridges, or any of them, is begun the State of Massachusetts shall by legislative enactment provide for adequate compensation for the owner, owners, lessee, or lessees of property abutting on said river above any of the said bridges for damages, if any, caused to said property or leasehold interests therein by reason of interference with the access by water to said prop-

erty, due to the construction of bridges without draws: Provided further, That said legislative enactment shall provide for the appointment of three commissioners to hear the parties in interest and assess the damages to said property, their decision as to the amount of damages and questions of fact to be final; said commissioners to be appointed by the supreme judicial court of Massachusetts.”

And the Senate agree to the same.

Also amend the title of the bill by striking out the present title and inserting in lieu thereof as the title of the bill the following: “To authorize the construction of drawless bridges across a certain portion of the Charles River in the State of Massachusetts.”

JAMES R. MANN,
C. G. WASHBURN,
W. C. ADAMSON,

Managers on the part of the House.

CHAUNCEY M. DEPEW,
S. H. FILES,
WM. J. STONE,

Managers on the part of the Senate.

STATEMENT.

The amendment of the Senate struck out all of section 1 of the bill as it passed the House and inserted a substitute amendment. As agreed to in conference, the following provision in the Senate amendment is stricken out, to wit:

“Provided further, That the State of Massachusetts shall, within a reasonable time after the completion of said bridges, or any of them, by legislative enactment provide for adequate compensation to the owner or owners of wharf property now used as such on said river above any of said bridges, for damages, if any, sustained by said property by reason of interference with access by water to said property now enjoyed, because of the construction of said bridges without a draw.”

And in lieu thereof, there is inserted the following provision:

“Provided further, That before the construction of said bridges or any of them is begun, the State of Massachusetts shall by legislative enactment provide for adequate compensation for the owner, owners, lessee, or lessees of property abutting on said river above any of the said bridges, for damages, if any, caused to said property or leasehold interests therein by reason of interference with the access by water to said property, due to the construction of bridges without draws: Provided further, That said legislative enactment shall provide for the appointment of three commissioners to hear the parties in interest and assess the damages to said property; their decision as to the amount of damages and questions of fact to be final; said commissioners to be appointed by the supreme judicial court of Massachusetts.”

The conference report also provides, in order to make the title agree with the Senate amendment as amended, to strike out the present title of the bill and insert in lieu thereof the following as the title: “A bill to authorize the construction of drawless bridges across a certain portion of the Charles River in the State of Massachusetts.”

JAMES R. MANN,
C. G. WASHBURN,
W. C. ADAMSON,

Managers on the part of the House.

BRITISH GOVERNMENT AND AMERICAN EXPRESS CO. CONTRACT.

Mr. MANN. Mr. Speaker, I present herewith a privileged report from the Committee on Interstate and Foreign Commerce on House resolution 962.

The SPEAKER. The Clerk will read the resolution.

The Clerk read as follows:

House resolution 962.

Resolved, That the Secretary of Commerce and Labor be, and he is hereby, requested to send to the House of Representatives a copy of the contract (on file in the office of the Interstate Commerce Commission) between the British Government and the American Express Co., relative to the delivery of parcels and packages at post offices in the United States, elsewhere than in the State of New York, for a flat rate.

Mr. THOMAS of North Carolina. Mr. Speaker, I raise the question of consideration.

The SPEAKER. The gentleman from North Carolina [Mr. THOMAS] raises the question of consideration on this report. The question is, Will the House consider the report?

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 60, noes 153.

Mr. MANN. I ask for the yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 74, nays 178, answered "present" 6, not voting 126, as follows:

YEAS—74.

Alexander, N. Y.	Esch	Küstermann	Roberts
Anthony	Fassett	Longworth	Rodenberg
Barchfield	Fish	Lowden	Sheffield
Burke, Pa.	Foss	McGuire, Okla.	Simmons
Calderhead	Gaines	McKinley, Ill.	Smith, Iowa
Campbell	Garner, Pa.	McKinney	Stafford
Cassidy	Guernsey	Madden	Steenerson
Cole	Hanna	Madison	Sterling
Cooper, Pa.	Henry, Conn.	Malby	Stevens, Minn.
Cooper, Wis.	Hill	Mann	Swasey
Creager	Hinschaw	Martin, S. Dak.	Taylor, Ohio
Currier	Howell, N. J.	Moxley	Thomas, Ohio
Dalzell	Howell, Utah	Nelson	Tilson
Dodds	Howland	Norris	Volstead
Draper	Hull, Iowa	Nye	Vreeland
Durey	Humphrey, Wash.	Olmsted	Wiley
Dwight	Kendall	Palmer, H. W.	Woods, Iowa
Ellis	Kennedy, Iowa	Pratt	
Englebright	Kennedy, Ohio	Reader	

NAYS—178.

Adair	Cullop	Hull, Tenn.	Oldfield
Adamson	Dent	Jamieson	Padgett
Alken	Denver	Johnson, Ky.	Page
Alexander, Mo.	Dickinson	Johnson, Ohio	Parsons
Ames	Dickson, Miss.	Johnson, S. C.	Pearre
Anderson	Diekema	Jones	Peters
Ansberry	Dies	Kelher	Plumley
Ashbrook	Dixon, Ind.	Kinkaid, Nebr.	Pray
Austin	Douglas	Kitchin	Prince
Barnhart	Driscoll, D. A.	Knowland	Pujo
Bartlett, Ga.	Driscoll, M. E.	Korbly	Rainey
Beall, Tex.	Edwards, Ga.	Lamb	Randell, Tex.
Bell, Ga.	Edwards, Ky.	Langham	Richardson
Bennet, N. Y.	Ellerbe	Langley	Robinson
Bingham	Elvins	Latta	Rothermel
Boehne	Estopinal	Law	Rucker, Colo.
Booher	Ferris	Lawrence	Rucker, Mo.
Borland	Fitzgerald	Lee	Saunders
Bowers	Flood, Va.	Legare	Shackleford
Brantley	Floyd, Ark.	Lever	Sheppard
Broussard	Foster, Ill.	Lindbergh	Sherley
Burgess	Gardner, Mass.	Lively	Sherwood
Burke, S. Dak.	Garner, Tex.	Livingston	Sims
Burleson	Garrett	Lloyd	Sisson
Burnett	Glass	McHenry	Slayden
Butler	Godwin	McLachlan, Cal.	Slemp
Byrd	Good	McLaughlin, Mich.	Small
Byrns	Gordon	Macon	Smith, Tex.
Calder	Graham, Ill.	Maguire, Nebr.	Spight
Candler	Grant	Martin, Colo.	Stanley
Cantrill	Greene	Massey	Stephens, Tex.
Carlin	Hamlin	Maynard	Suloway
Carter	Hardy	Mays	Taylor, Colo.
Cary	Harrison	Miller, Minn.	Thistlewood
Chapman	Havens	Mitchell	Thomas, Ky.
Clark, Fla.	Hay	Moon, Tenn.	Thomas, N. C.
Clark, Mo.	Heflin	Morgan, Mo.	Tou Velle
Clayton	Helm	Morgan, Okla.	Townsend
Cline	Henry, Tex.	Morrison	Turnbull
Collier	Hitchcock	Morse	Underwood
Cowles	Hobson	Moss	Watkins
Cox, Ind.	Hollingsworth	Needham	Webb
Cox, Ohio	Houston	Nicholls	Wickliffe
Craig	Hughes, Ga.	O'Connell	
Crumpacker	Hughes, N. J.	Olcott	

ANSWERED "PRESENT"—6.

Boutell	Kopp	Parker	Young, N. Y.
Davis	Goulden		

NOT VOTING—126.

Allen	Gardner, N. J.	Knapp	Reld
Andrus	Gill, Md.	Kronmiller	Rhinock
Barclay	Gill, Mo.	Lafean	Riordan
Barnard	Gillespie	Lenroot	Roddenberg
Bartholdt	Gillett	Lindsay	Sabath
Bartlett, Nev.	Goebel	Loud	Scott
Bates	Goldfogle	Loudenslager	Sharp
Bennett, Ky.	Graff	Lundin	Smith, Cal.
Bradley	Graham, Pa.	McCall	Smith, Mich.
Burleigh	Gregg	McCreary	Snapp
Capron	Griest	McCredie	Southwick
Cocks, N. Y.	Hamer	McDermott	Sparkman
Conry	Hamill	McKinlay, Cal.	Sperry
Coudrey	Hamilton	McMorran	Sturgiss
Covington	Hammond	Miller, Kans.	Sulzer
Cravens	Hardwick	Millington	Talbott
Crow	Haugen	Mondell	Tawney
Davidson	Hayley	Moon, Pa.	Taylor, Ala.
Dawson	Hayes	Moore, Pa.	Wallace
Denby	Heald	Moore, Tex.	Wanger
Dupre	Higgins	Morehead	Washburn
Fairchild	Howard	Mudd	Weeks
Finley	Hubbard, Iowa	Murdock	Welss
Focht	Hubbard, W. Va.	Murphy	Wheeler
Foelker	Huff	Palmer, A. M.	Willett
Fordney	Hughes, W. Va.	Patterson	Wilson, Ill.
Fornes	Humphreys, Miss.	Payne	Wilson, Pa.
Foster, Vt.	James	Pickett	Wood, N. J.
Fowler	Joyce	Poindexter	Woodyard
Fuller	Kahn	Pou	Young, Mich.
Gallagher	Keifer	Ransdell, La.	
Gardner, Mich.	Kinkad, N. J.	Rauch	

So the House refused to consider the report.

The Clerk announced the following additional pairs:

Until further notice:

Mr. BARTHOLDT with Mr. TALBOTT.

Mr. KAHN with Mr. GILL of Missouri.

Mr. OLMSTED with Mr. GALLAGHER.

Mr. HIGGINS with Mr. FINLEY.

Mr. BURLEIGH with Mr. RAUCH.

Mr. LAFEAN with Mr. TAYLOR of Alabama.

On this vote:

Mr. WANGER with Mr. KOPP.

ORDER OF BUSINESS.

Mr. MANN. Mr. Speaker, I demand the regular order.

The SPEAKER. The gentleman from Illinois demands the regular order.

Mr. PRINCE. Mr. Speaker, I rise to make a motion which is preferential and privileged.

Mr. MANN. Mr. Speaker, I call the attention of the gentleman—

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands the regular order. The gentleman from Illinois [Mr. PRINCE] rises for what purpose?

Mr. PRINCE. To move that the House resolve itself into the Committee of the Whole House for the consideration of business on the Private Calendar, this being Friday, the day set apart for that purpose.

Mr. MANN. Mr. Speaker, I call the attention of the Speaker to the rule printed on page 444 of the Manual:

On Friday of each week, after the unfinished business has been disposed of, it shall be in order to entertain a motion that the House resolve itself into the Committee of the Whole House to consider business on the Private Calendar.

Rule XXIV provides the order of business in the House:

The daily order of business shall be as follows: First, prayer by Chaplain; second, reading and approval of the Journal; third, reference of public bills; fourth, disposal of business on the Speaker's table; fifth, unfinished business.

The rule, quoting paragraph 6, Rule XXIV, provides:

On Friday of each week, after the unfinished business has been disposed of, it shall be in order to entertain a motion that the House resolve itself into Committee of the Whole House to consider business on the Private Calendar.

The unfinished business is not completed until the business on the Speaker's table has been disposed of. There has come to the Speaker's table a message from the President, which is entitled to be disposed of.

Mr. FITZGERALD. Mr. Speaker, the uniform practice has been, when a message from the President comes at this stage of the proceedings, to lay it before the House immediately before adjournment.

Mr. MANN. That is the uniform practice where the committee rises informally to receive a message from the President, which is the usual way it gets into the House; but where the President's message comes to the House itself, I think it is the uniform practice to lay it before the House at the first opportunity. Now, of course there may be a question whether the term "unfinished business," in paragraph 6, relates to unfinished business named in the first paragraph of Rule XXIV, or the unfinished private business. I call the attention of the Speaker to the fact that the rule says that "after the unfinished business has been disposed of," and that the first paragraph of the rule refers to unfinished business as coming after the business on the Speaker's table is disposed of. So, whether it be unfinished private business or unfinished public business, it comes after the business on the Speaker's table has been disposed of.

Mr. FITZGERALD. Unfinished business referred to in the rule is the business that has come over with the previous question ordered upon it.

Mr. MANN. I am not saying that the unfinished business is to come up now, but the right to go into Committee of the Whole comes after the unfinished business is disposed of, and the unfinished business comes after the matter on the Speaker's table has been disposed of.

The SPEAKER. Many decisions have been made touching business on Friday. It is perfectly clear from all the decisions that a general appropriation bill or a revenue bill has the right of way as an original proposition, if it is asserted, until the House disposes of that business on Friday. Now, so far as the Chair has been able to ascertain from a hasty examination, the Chair would have no hesitancy in saying that a conference report is that nature of business that would have priority on a Friday. And so might a President's message; but the Chair, however, will not make a ruling touching that matter at this time without further examination; but a question of privilege of the House or of a Member would, under the

rules and practice of the House, come primarily first. The House might make a disposition of these matters, if it saw proper to do so, on the question of consideration.

Now, the demand is made for the regular order, and the disposition of business on the Speaker's table is one of the items in the call—that is, after the Journal, and so forth, comes business on the Speaker's table. The Chair is perfectly clear, under the decisions and under the precedents and under the rule that business on the Speaker's table on Friday of a private nature would equally come before the motion to go into Committee of the Whole is made.

Therefore the Chair lays before the House the following House bill with Senate amendment:

WILLIAM MITCHELL.

The bill (H. R. 8699) to authorize the Secretary of War to recognize William Mitchell, deceased, as having been a member of Company C, First Regiment Tennessee Mounted Infantry, Civil War.

The Senate amendment was read.

Mr. HAY. I move to concur in the Senate amendment.

Mr. CARLIN. Upon that motion I demand the previous question.

Mr. MANN. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. HAY. I have the floor.

Mr. MANN. I want to ask the gentleman a question.

Mr. HAY. I will yield to the gentleman for a question.

Mr. MANN. I notice that the Senate amendment strikes out all after the enacting clause and inserts a new proposition.

Mr. HAY. It is in the usual form.

Mr. MANN. The Committee on Military Affairs, then, in reporting it, made a slight mistake.

Mr. HAY. It did.

The SPEAKER. The question is on the motion of the gentleman from Virginia, that the House do concur in the Senate amendments.

The question was taken.

Mr. MANN. Mr. Speaker, I demand a division.

Mr. CARLIN. Mr. Speaker, I make the point of order that that is a dilatory demand, as there was no vote heard in the negative.

The SPEAKER. By no means. This is the consideration of Senate amendments on a motion that the House concur in the Senate amendments. From a viva voce expression the Chair always recognizes a demand for a division.

Mr. CARLIN. Mr. Speaker, I withdraw the point of order.

The House divided; and there were—ayes 155, noes 8.

Mr. MANN. Mr. Speaker, I make the point of order that there is not a quorum present.

Mr. HAY. Mr. Speaker, I make the point that that is dilatory.

Mr. LANGLEY. The last roll call discloses a quorum present.

The SPEAKER. The Chair is inclined to think that a quorum is present. The Chair just counted the House.

Mr. MANN. The Chair's count did not show a quorum, but if the Chair thinks there is a quorum present, that is satisfactory to me.

The SPEAKER. The Chair is satisfied there is a quorum present.

So the motion to concur in the Senate amendments was agreed to.

HORACE P. RUGG.

The SPEAKER laid before the House the bill (H. R. 26722) for the relief of Horace P. Rugg, with Senate amendments thereto.

The Senate amendments were read.

Mr. HAY. Mr. Speaker, I move to concur in the Senate amendments.

Mr. STEVENS of Minnesota. Mr. Speaker, I move that the House concur in the Senate amendments.

The SPEAKER. Who has charge of the bill?

Mr. STEVENS of Minnesota. Mr. Speaker, I make the motion that the House concur in the Senate amendments.

Mr. MANN. Will the gentleman yield for a question?

Mr. CARLIN. Mr. Speaker, would it be in order to move the previous question on the motion?

Mr. MANN. Let the gentleman move the previous question and we will have a roll call on it. Will the gentleman from Minnesota yield for a question?

Mr. STEVENS of Minnesota. Mr. Speaker, I yield to the gentleman from Illinois for a question.

Mr. MANN. Mr. Speaker, I notice that a resolution has been reported into the House for the purpose of correcting the language and the purport of all of the bills of this class which

passed the House during the last calendar year, or the last fiscal year, I think, the year 1910. Is the gentleman's committee now satisfied that this form of bill would enable a man to get a pension, that being the purpose, the form we passed last year having failed in that direction?

Mr. STEVENS of Minnesota. Mr. Speaker, that is quite a different proposition than that presented by the Senate amendments to this bill.

Mr. MANN. Oh, I supposed it was that proposition.

Mr. STEVENS of Minnesota. The recipient of this bill does not demand any pension. He is a man of independent means, and an unfortunate mistake occurred in his military record, well known to one of the influential Members of this House—the gentleman from Pennsylvania [Mr. BINGHAM]—and upon the statement of that gentleman the Committee on Military Affairs framed and passed the bill. The Senate did not desire that there should be any question that a pension could not be had, and so amended it, and the Committee on Military Affairs of the House is quite content to accept the Senate amendment. The gentleman from Illinois suggests that there is pending on the House calendar a proposition to correct some of the language of bills that have passed the House heretofore, correcting military records. Under a construction of the Pension Office the language of the House bills or the bills as passed by both of the Houses of Congress did not allow a pension. I think that was a mistake on the part of the department, but to prevent any error and to prevent any injustice the Committee on Military Affairs did frame and prepare an amendment to those bills that have heretofore passed, which is now upon the calendar. But this is not one of those cases. This is a case of obvious injustice, as is well known, as I stated, by the distinguished gentleman from Pennsylvania [Mr. BINGHAM], and upon his statement the Committee on Military Affairs acted, so that under these circumstances I move that the House do concur in the Senate amendment.

The SPEAKER. The question is on agreeing to the Senate amendment.

The question was taken, and the motion was agreed to.

JOHN B. LORD.

The SPEAKER also laid before the House from the Speaker's table the bill (S. 2045) for the relief of John B. Lord, owner of lot 86, square 723, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to the construction of the Union Station, District of Columbia, with House amendments disagreed to by the Senate.

Mr. MANN. Mr. Speaker, I move that the House concur in the Senate amendment. Mr. Speaker, having made the motion, not wishing to detain the House, but I did not hear what the Senate amendment was and I would like to have it reported. I have no intention of detaining the House in reference to the matter.

The SPEAKER. Does the gentleman move that the House recede from its disagreement and concur in the amendments?

Mr. MANN. If it is in that shape, I do not care to make any motion at all, but let the people in charge of it make the motion.

Mr. SHERLEY. Mr. Speaker, for information I would like to know from what committee of the House the bill comes.

The SPEAKER. This seems to be a District of Columbia bill.

Mr. SHERLEY. Mr. Speaker, I move to refer it to the Committee on the District of Columbia.

Mr. MANN. Oh, no.

Mr. SHERLEY. But there is nobody here to take care of it.

Mr. MANN. Then let it be referred to the District of Columbia Committee. Mr. Speaker, the gentleman from Kentucky has moved to refer the bill to the District Committee, and I offer an amendment to that.

Mr. SHERLEY. The gentleman has not the floor yet.

The SPEAKER. The gentleman from New York, Mr. OLCOTT, is present.

Mr. OLCOTT. Mr. Speaker, is there any particular reason why this bill can not remain on the Speaker's table? I personally do not know anything about the bill, but I presume some gentleman on the Committee on the District of Columbia is interested in it. It seems to me to be rather unfortunate if some one is accidentally away that an opportunity should not be accorded to him to have the bill taken from the Speaker's table when he is present, and I hope that will be done. I would like to suggest that the bill remain on the Speaker's table, if that is the proper motion to make.

The SPEAKER. Does the gentleman from New York ask unanimous consent that the bill remain on the Speaker's table?

Mr. OLCOTT. That is exactly what I do, Mr. Speaker.

The SPEAKER. Is there objection?

Mr. SHERLEY. Pending the right to object, if I understand the call for the regular order shall not bring that bill up again to-day.

Mr. MANN. We can not have any understanding about it.
Mr. SHERLEY. This is simply postponing it, and I am not willing for it to be used as a buffer.

Mr. MANN. All right; we will have two or three roll calls on it.

The SPEAKER. Is there objection to the request of the gentleman? [After a pause.] The Chair hears none, and the bill remains on the Speaker's table. This disposes of private bills on the Speaker's table.

Mr. PRINCE. Mr. Speaker, I now renew my motion that the House resolve itself into the Committee of the Whole for the consideration of bills on the Private Calendar.

The SPEAKER. The gentleman from Illinois moves that the House resolve itself into the Committee of the Whole for the consideration of bills on the Private Calendar.

Mr. MANN. Mr. Speaker, I make the point of order that that motion is not in order if the regular order be demanded, and I wish to be heard for a moment on the point of order.

The SPEAKER. The Chair will hear the gentleman.

Mr. MANN. Mr. Speaker, if it should be held that the public business on the Speaker's table can not be taken from the Speaker's table on Friday, pending the disposition of private business, there is no way, except by voting down the motion to go into the Committee of the Whole or by directly dispensing with the day, to get at even a President's message. This day may last for several days, and we would be without any method of taking from the Speaker's table a message from the President of the United States. It seems to me that is an unheard of proposition, that the President is not able to communicate with the Congress as provided by the Constitution. If you hold that you can not take from the Speaker's table a message from the President while the House is considering private business or pending the consideration of private business, the President is not able to communicate with Congress, as the Constitution provides he may, if a majority of the House do not wish to hear that message read or wish to keep on with some other business.

Mr. AUSTIN. May I ask the gentleman a question?

Mr. MANN. Certainly.

Mr. AUSTIN. Has not the President of the United States in his annual message asked Congress to make an appropriation to pay claims certified by the Court of Claims?

Mr. MANN. Yes; but if he now sent in a message asking to have them paid, under the contention of the gentleman the message could not be communicated to the House.

Mr. SHERLEY. Will the gentleman yield to a question?

Mr. MANN. Certainly.

Mr. SHERLEY. If the gentleman's reasoning is right, would it not also apply when we were having prayer by the Chaplain, or reading and approval of the Journal, or correction, and reference of public bills, all of which come ahead of the President's message?

Mr. MANN. I do not see the force of the reasoning at all.

Mr. SHERLEY. The gentleman's reasoning is that you can not hear the President's message, because you can not hear it at this moment.

Mr. MANN. Here is the gentleman's proposition: The House goes into the Committee of the Whole House on the state of the Union on the Private Calendar, stays in Committee of the Whole, rises, and goes back into the House; the House does not adjourn, and you can not take the message from the Speaker's table to be read. There would be a motion still in order to go back into Committee of the Whole House on the state of the Union on the Private Calendar, and you get yourself involved in a situation where it is not possible to receive a message from the President under the Constitution of the United States, no matter how important that message might be, except by unanimous consent.

Mr. SHERLEY. Would it not be in order to adjourn, and would not that prevent the reading of the message?

Mr. FITZGERALD. Those were rules adopted by the majority, of which the gentleman from Illinois [Mr. MANN] is a member. He should not find fault with them now. He never has found fault with them before.

Mr. MANN. The gentleman is carrying on a conversation with his next-door neighbor there. I can not understand it over here.

Mr. FITZGERALD. The Speaker understands it.

Mr. MORSE. The reporter got it down.

Mr. MANN. The reporter got up close to his shoulder.

The SPEAKER. The rule is plain. The Chair will read Rule XXVI, as follows:

Friday in every week shall be set apart for the consideration of private business unless otherwise determined by the House.

And the House may otherwise determine by motion if it is so ordered. In the absence of such order the Chair will not lay before the House public business.

Mr. FOSS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FOSS. Is it in order to move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the naval appropriation bill?

The SPEAKER. That has been uniformly held to be so with general appropriation bills and revenue bills.

Mr. FITZGERALD. Mr. Speaker, I desire to call the attention of the Speaker to this fact: That the proceedings to-day demonstrate that the House desires to vote on the motion which is in order to-day. The Chair not long since intimated that if a certain vote disclosed a disposition of the majority to do a certain kind of business, the House would not permit the interposition of motions, although they would be privileged.

Now, it is apparent that a substantial majority of the House desires to proceed to the consideration of business in order to-day. I believe the House is entitled to determine that question upon the motion in order in preference to the motion to be submitted by the gentleman from Illinois [Mr. Foss].

The SPEAKER. The gentleman from Illinois [Mr. PRINCE] did make a motion that the House resolve itself into Committee of the Whole House on the state of the Union for consideration of business on the Private Calendar, but the gentleman from Illinois [Mr. MANN] made the point of order—

Mr. FITZGERALD. No; he did not. He asked the Chair a question.

The SPEAKER (continuing). That there was public business on the Speaker's table that under the rules should be first considered. Now, while there is public business on the Speaker's table, yet, so far as the Chair has been able to ascertain from the precedents, it is not of that nature that it would be entitled to be considered without action upon the part of the House. Therefore the Chair overrules the point of order and entertains the motion made by the gentleman from Illinois [Mr. PRINCE].

Mr. PRINCE. Mr. Speaker, a parliamentary inquiry.

Mr. THOMAS of North Carolina. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. THOMAS of North Carolina. Does the Speaker recognize the gentleman from Illinois, Mr. Foss, or the gentleman from Illinois, Mr. PRINCE?

The SPEAKER. The Chair has just decided that point. The question is on the motion of the gentleman from Illinois [Mr. PRINCE].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MANN. Division, Mr. Speaker.

The House divided; and there were—ayes 151, noes 50.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands the yeas and nays. All those who favor ordering the yeas and nays will rise and stand until counted. [After counting.] Fifty-one gentlemen have arisen.

Mr. CARLIN. Mr. Speaker, I demand tellers.

Mr. HEFLIN. Mr. Speaker, how many did the Chair announce?

The SPEAKER. Fifty-one—a sufficient number.

Mr. HEFLIN. The Speaker has superb counting ability and a marvelous imagination.

The SPEAKER. Does the gentleman from Virginia [Mr. CARLIN] demand tellers?

Mr. CARLIN. Yes, sir.

The SPEAKER. The Chair will state that as many as desire tellers on ordering the yeas and nays will rise and stand until counted.

Tellers were refused.

Mr. MADDEN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The question is on the motion of the gentleman from Illinois [Mr. PRINCE]. The yeas and nays are ordered. Those in favor of the motion will answer "yea," those opposed will answer "nay," those present and not voting will answer "present," and the Clerk will call the roll.

The question was taken; and there were—yeas 181, nays 59, answered "present" 8, not voting 136, as follows:

YEAS—181.

Adair	Bartlett, Ga.	Burgess	Carter
Adamson	Beall, Tex.	Burke, Pa.	Cary
Aiken	Bell, Ga.	Burleson	Chapman
Alexander, Mo.	Bennet, N. Y.	Burnett	Clark, Fla.
Alexander, N. Y.	Boehne	Butler	Clark, Mo.
Ames	Booher	Byrns	Clayton
Anderson	Borland	Calder	Collier
Ashbrook	Bowers	Candler	Cooper, Wis.
Austin	Brantley	Candrell	Cowles
Barnhart	Broussard	Carlin	Cox, Ind.

Cox, Ohio	Grant	Lever	Rucker, Mo.
Craig	Greene	Lively	Saunders
Creager	Guernsey	McHenry	Shackleford
Crumacker	Hamlin	McKinlay, Cal.	Sheffield
Clupp	Hardy	McKinney	Sheppard
Dawson	Harrison	McLachlan, Cal.	Sherley
Dent	Haugen	Macon	Sherwood
Denver	Havens	Maguire, Nebr.	Simmons
Dickinson	Hawley	Malby	Sims
Dickson, Miss.	Hay	Martin, Colo.	Sisson
Diekema	Hayes	Maynard	Slomp
Dies	Heflin	Mays	Small
Dixon, Ind.	Helm	Mitchell	Smith, Tex.
Dodds	Hitchcock	Mondell	Spight
Driscoll, D. A.	Hobson	Moon, Tenn.	Stanley
Edwards, Ga.	Hollingsworth	Morgan, Mo.	Stephens, Tex.
Edwards, Ky.	Houston	Morgan, Okla.	Sulloway
Ellerbe	Hughes, Ga.	Morse	Swasey
Englebright	Hull, Tenn.	Moss	Taylor, Ala.
Estopinal	Jamieson	Nicholls	Taylor, Colo.
Ferris	Johnson, Ky.	Nye	Taylor, Ohio.
Finley	Johnson, Ohio	O'Connell	Thistlewood
Fitzgerald	Johnson, S. C.	Olcott	Thomas, Ky.
Flood, Va.	Jones	Oldfield	Thomas, N. C.
Floyd, Ark.	Keifer	Padgett	Tou Velle
Focht	Kelher	Page	Townsend
Foster, Ill.	Kitchin	Pearre	Turnbull
Foster, Vt.	Knowland	Plumley	Underwood
Fuller	Korby	Prince	Wallace
Gardner, Mass.	Lamb	Pujo	Watkins
Garner, Tex.	Langham	Rainey	Webb
Garrett	Langley	Randell, Tex.	Weeks
Godwin	Law	Richardson	Wickliffe
Good	Lawrence	Robinson	
Gordon	Lee	Rothermel	
Graham, Ill.	Legare	Rucker, Colo.	

NAYS—59.

Anthony	Garner, Pa.	Lundin	Roberts
Barchfeld	Goebel	McGuire, Okla.	Rodenberg
Barnard	Graff	McKinley, Ill.	Scott
Bingham	Henry, Conn.	Madden	Smith, Iowa
Burke, S. Dak.	Hinslaw	Mann	Snapp
Campbell	Howell, N. J.	Martin, S. Dak.	Stafford
Cline	Howell, Utah.	Miller, Kans.	Steenerson
Cooper, Pa.	Howland	Miller, Minn.	Sterling
Dalzell	Hubbard, Iowa	Morrison	Stevens, Minn.
Draper	Humphrey, Wash.	Moxley	Thomas, Ohio
Dwight	Kendall	Nelson	Tilson
Esch	Kennedy, Iowa	Norris	Volstead
Fassett	Klistermann	Olmsted	Wiley
Fish	Lindbergh	Palmer, H. W.	Woods, Iowa
Foss	Lowden	Pratt	

ANSWERED "PRESENT"—8.

Douglas	Goulden	Kopp	Pickett
Driscoll, M. E.	Hughes, N. J.	Massey	Young, N. Y.

NOT VOTING—136.

Allen	Fowler	Kinkaid, Nebr.	Peters
Andrus	Gaines	Kinkead, N. J.	Polindexter
Ansberry	Gallagher	Knapp	Pou
Barclay	Gardner, Mich.	Kronmiller	Pray
Bartholdt	Gardner, N. J.	Lafean	Ransdell, La.
Bartlett, Nev.	Gill, Md.	Latta	Rauch
Bates	Gill, Mo.	Lenroot	Reeder
Bennett, Ky.	Gillespie	Lindsay	Reid
Boutell	Gillet	Livingston	Rhinock
Bradley	Glass	Lloyd	Riordan
Burleigh	Goldfogle	Longworth	Roddenbery
Byrd	Graham, Pa.	Loud	Sabath
Calderhead	Gregg	Loudenslager	Sharp
Capron	Griest	McCall	Slayden
Cassidy	Hamer	McCreary	Smith, Cal.
Cocks, N. Y.	Hamill	McCredie	Smith, Mich.
Cole	Hamilton	McDermott	Southwick
Conry	Hammond	McLaughlin, Mich.	Sparkman
Coudrey	Hanna	McMorran	Sperry
Covington	Hardwick	Madison	Sturgiss
Cravens	Heald	Millington	Sulzer
Crow	Henry, Tex.	Moon, Pa.	Talbott
Currier	Higgins	Moore, Pa.	Tawney
Davidson	Hill	Moore, Tex.	Vreeland
Davis	Howard	Morehead	Wanger
Denby	Hubbard, W. Va.	Mudd	Washburn
Dupre	Huff	Murdoch	Weisse
Durey	Hughes, W. Va.	Murphy	Wheeler
Ellis	Hull, Iowa	Needham	Willett
Elvins	Humphreys, Miss.	Palmer, A. M.	Wilson, Ill.
Fairchild	James	Parker	Wilson, Pa.
Foelker	Joyce	Parsons	Wood, N. J.
Fordney	Kahn	Patterson	Woodyard
Fornes	Kennedy, Ohio	Payne	Young, Mich.

So the motion was agreed to.

The Clerk announced the following additional pairs:

For this session:

Mr. HILL with Mr. GLASS.

Until further notice:

Mr. CALDERHEAD with Mr. BYRD.

Mr. CURRIER with Mr. HAMMOND.

Mr. CAPRON with Mr. LIVINGSTON.

Mr. VREELAND with Mr. ANSBERRY.

Mr. FORDNEY with Mr. LATTI.

Mr. HEALD with Mr. SLAYDEN.

Mr. HIGGINS with Mr. SULZER.

Mr. KNAFF with Mr. LIVINGSTON.

Mr. GARDNER of New Jersey with Mr. LLOYD.

For the balance of the day:

Mr. LONGWORTH with Mr. HUGHES of New Jersey.

Mr. DOUGLAS with Mr. COLE.

On this vote:

Mr. WANGER with Mr. KOPP.

Mr. HUGHES of New Jersey. Mr. Speaker, I would like to know how I am recorded.

The SPEAKER. The gentleman from New Jersey [Mr. HUGHES] is recorded in the affirmative.

Mr. HUGHES of New Jersey. Mr. Speaker, I desire to change my vote. I am paired with the gentleman from Ohio [Mr. LONGWORTH]. I desire to vote "present."

The name of Mr. HUGHES of New Jersey was called, and he answered "present."

The result of the vote was then announced as above recorded.

Accordingly the House resolved itself into Committee of the Whole House for the consideration of bills on the Private Calendar, with Mr. CURRIER in the chair.

ORDER OF BUSINESS.

The CHAIRMAN. The House is in Committee of the Whole House for the consideration of bills on the Private Calendar.

Mr. SIMS, Mr. PRINCE, and Mr. GARDNER of Massachusetts rose.

Mr. GARDNER of Massachusetts. Mr. Chairman, I call up the bill (S. 9674) for the relief of James Henry Payne, which I send to the Clerk's desk to have read.

Mr. SIMS. Mr. Chairman, I am a member of the Committee on War Claims, and I desire to make a preferential motion.

Mr. PRINCE. Mr. Chairman, I would much—

The CHAIRMAN. The Chair will first recognize a member of the Committee on Claims. The chairman of the committee desires to be recognized, and will be recognized.

Mr. PRINCE. Mr. Chairman, I would much prefer, if the committee would do so, to try to take up the bills in their regular order, for the reason, Mr. Chairman, that there has been a union of forces to bring about this result.

Mr. MANN. An unholy alliance, the gentleman means. [Laughter.]

Mr. PRINCE. It may be, but the alliance seemed to work out very well. [Laughter.]

Mr. HUGHES of New Jersey. If the gentleman from Illinois [Mr. MANN] is satisfied, you are.

Mr. PRINCE. If I am allowed by the Chairman of the Committee of the Whole to call up bills first, I will move to take up the first bill from the Committee on Claims, calendar No. 566.

Mr. SIMS. Mr. Chairman, I move as a substitute for that motion the following—

Mr. MANN. Mr. Chairman, I call the attention of the Chair to the fact that the gentleman from Tennessee [Mr. SIMS] is not a member of the Committee on Claims, which has priority to-day.

Mr. SIMS. I am a member of the Committee on War Claims.

The CHAIRMAN. The gentleman from Illinois [Mr. PRINCE], if he desires recognition, will be recognized to make any motion regarding the order of business on the Private Calendar.

Mr. GARDNER of Massachusetts. But, Mr. Chairman, I make the point of order that the gentleman has made no motion before the House.

Mr. PRINCE. Mr. Chairman, I move that we take up House bill 26121, calendar No. 566, a bill for the relief of Edward F. Kearns, which is the first bill coming from the Committee on Claims in order on the Private Calendar.

Mr. SIMS. Now, Mr. Chairman, I move to amend that motion—

The CHAIRMAN. Let the Chair state the question. The gentleman from Illinois [Mr. PRINCE] moves to take up the bill (H. R. 26121) for the relief of Edward F. Kearns, the first bill on the Private Calendar reported from the committee.

Mr. SIMS. I move to substitute for the bill mentioned by the gentleman from Illinois the bill (S. 7971) known as the omnibus claims bill, having claims in it from both the War Claims and the Claims Committees.

Mr. MANN. I make the point of order that the motion is not amendable.

The CHAIRMAN. The gentleman from Illinois makes the point of order that the motion made by his colleague [Mr. PRINCE] is not amendable.

Mr. SIMS. I moved it as a substitute.

The CHAIRMAN. The Chair so understands. A substitute is in the nature of an amendment. The Chair can not see that it will expedite business any to entertain the motion of the gentleman to amend by substituting another bill, since it is just as easy to vote down the motion made by the gentleman from Illinois [Mr. PRINCE]. The Chair does not think that the motion made by the gentleman from Illinois [Mr. PRINCE] is either debatable or amendable.

Mr. SIMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SIMS. If the motion is voted down, then will the Chair recognize me to make this motion?

The CHAIRMAN. The Chair will have to recognize some one, but can not state at this time to whom recognition will be given.

Mr. SIMS. The rule is that the Committee of the Whole has a right to determine its own order of business after it has gone into Committee of the Whole.

The CHAIRMAN. And the gentleman from Illinois has made a motion looking to that determination. The question is on the motion of the gentleman from Illinois [Mr. PRINCE].

The question being taken, the Chairman announced that the ayes appeared to have it.

Mr. SIMS and Mr. THOMAS of North Carolina demanded a division.

The committee divided; and there were—ayes 61, noes 82.

Accordingly the motion was rejected.

OMNIBUS CLAIMS BILL.

Mr. SIMS. Now, Mr. Chairman, I renew my motion to take up the bill (S. 7971) for the allowance of certain claims reported by the Court of Claims, and for other purposes, known as the "omnibus bill."

The CHAIRMAN. The gentleman from Tennessee moves to take up the bill S. 7971. The question is on the motion of the gentleman from Tennessee.

Mr. GARDNER of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARDNER of Massachusetts. Is that motion debatable?

The CHAIRMAN. The motion is not debatable.

The question being taken, the Chairman announced that the ayes appeared to have it.

Mr. MANN. Division!

The committee divided; and there were—ayes 86, noes 47.

Accordingly the motion was agreed to.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read the title of the bill.

Mr. SIMS. I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the first reading of the bill be dispensed with.

Mr. MILLER of Kansas and Mr. GARDNER of Massachusetts objected.

The CHAIRMAN. Objection is heard.

Mr. SIMS. Mr. Chairman, is it in order to move to dispense with the first reading of the bill?

The CHAIRMAN. It is not in order to move it. The Clerk will report the bill.

The Clerk proceeded with the reading of the bill.

Mr. PRINCE (when the Clerk had read to line 21, page 24). Mr. Chairman, I ask unanimous consent that the further reading of the bill be dispensed with.

Mr. MANN. I object. I want the bill read, so that we may understand it. It seems to me, Mr. Chairman, that we ought to have a quorum of the committee here to hear the bill read, and I make the point of order that there is no quorum. I should not have made the point had it not been that my colleague interrupted the reading of the bill.

The CHAIRMAN (Mr. KENDALL). The gentleman from Illinois makes the point of no quorum. The Chair will count. [After counting.] Seventy-nine Members present—not a quorum—and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Allen	Coudrey	Fish	Hamer
Andrus	Covington	Flood, Va.	Hamill
Anthony	Cox, Ind.	Focht	Hamilton
Ashbrook	Cravens	Foelker	Hanna
Barchfeld	Creager	Fordney	Hardwick
Barclay	Crow	Fornes	Harrison
Barnard	Crumpacker	Fowler	Haugen
Barnhart	Dent	Gaines	Havens
Bartlett, Nev.	Dies	Gallagher	Hawley
Bates	Dixon, Ind.	Gardner, Mass.	Hay
Bennett, Ky.	Douglas	Gardner, Mich.	Heald
Boutell	Draper	Garner, Pa.	Hedley
Bowers	Dupre	Gill, Md.	Henry, Conn.
Burke, Pa.	Durey	Gill, Mo.	Henry, Tex.
Burleigh	Ellis	Gillespie	Hill
Calder	Elvins	Gillett	Hitchcock
Campbell	Englebright	Glass	Hobson
Capron	Esch	Goebel	Howard
Cassidy	Estopinal	Goldfogle	Howell, Utah
Clark, Fla.	Fairchild	Graham, Pa.	Hubbard, Iowa
Cocks, N. Y.	Fassett	Gregg	Huff, Pa.
Conry		Griest	Hughes, W. Va.

Hull, Iowa	Lundin	Palmer, A. M.	Slayden
Humphrey, Wash.	McCreary	Palmer, H. W.	Smith, Cal.
Humphreys, Miss.	McCredie	Patterson	Smith, Mich.
James	McDermott	Payne	Sperry
Johnson, Ohio	McGuire, Okla.	Pearre	Steenerson
Johnson, S. C.	McKinlay, Cal.	Peters	Stevens, Minn.
Joyce	McLachlan, Cal.	Poindexter	Sturgiss
Kahn	McMorran	Pou	Talbot
Kinkaid, N. J.	Madden	Pratt	Taylor, Ala.
Kitchin	Madison	Pujo	Thomas, Ohio
Knapp	Martin, S. Dak.	Ransdell, La.	Townsend
Knowland	Maynard	Reeder	Wallace
Kopp	Miller, Minn.	Reid	Wanger
Kronmiller	Millington	Rhinock	Washburn
Küstermann	Moon, Pa.	Richardson	Weeks
Lafean	Moore, Pa.	Riordan	Weisse
Langham	Moore, Tex.	Roddenbery	Wheeler
Lenroot	Morehead	Rodenberg	Willett
Lindbergh	Morgan, Mo.	Sabath	Wilson, Ill.
Lindsay	Morrison	Saunders	Wilson, Pa.
Livingston	Moss	Scott	Wood, N. J.
Longworth	Mudd	Shackelford	Woods, Iowa
Loud	Murdock	Sharp	Woodard
Loudenslager	Murphy	Sheffield	Young, Mich.
Lowden	Nelson	Simmons	

The CHAIRMAN. Under the rule the committee will rise.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. KENDALL, Chairman of the Committee of the Whole House, reported that that committee had found itself without a quorum, that the roll had been called, and that he returned the list of absentees.

The SPEAKER. The report shows that there are present 188 Members. Under the rule the committee will resume its sessions.

Accordingly the House resolved itself into Committee of the Whole House, with Mr. KENDALL in the chair.

The Clerk resumed the reading of the bill.

Mr. SIMS (when the French spoliation claims were reached). Mr. Chairman, the part of the bill that the Clerk is now reading has been stricken out.

The CHAIRMAN. It is part of the bill.

Mr. SIMS. It appears on the bill, but it has been stricken out.

The CHAIRMAN. It is a part of the bill that is supposed to be stricken out.

Mr. SIMS. It is stricken out in the print.

Mr. MANN. If necessary I will ask that the original bill be read in which it is not stricken out.

The CHAIRMAN. It is a part of the bill and the Clerk will continue the reading.

The Clerk proceeded with the reading of the bill.

Mr. MANN (when the Clerk had reached page 82, line 3). Mr. Chairman, I think that the House ought to hear this bill, and I make the point of order that no quorum is present.

The CHAIRMAN (Mr. DIEKEMA). The gentleman from Illinois makes the point of no quorum, and the Chair will count.

Mr. HEFLIN. Mr. Chairman, I hope the gentleman will withdraw his point of order. He will get to bed much earlier, because we intend to stay here all night if necessary.

Mr. MANN. I do not see how I should get to bed any earlier if we stay here all night. [Laughter.]

Mr. HEFLIN. This is an important bill.

Mr. MANN. It is extremely important, and there is not a quorum in the House.

The CHAIRMAN. Fifty-five Members present—not a quorum—and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Chapman	Englebright	Graham, Ill.
Alexander, Mo.	Clark, Fla.	Esch	Graham, Pa.
Alexander, N. Y.	Clark, Mo.	Estopinal	Greene
Allen	Cline	Fairchild	Gregg
Anderson	Cocks, N. Y.	Fassett	Griest
Andrus	Cole	Ferris	Hamer
Ansberry	Conry	Fish	Hamill
Anthony	Cooper, Pa.	Focht	Hamilton
Ashbrook	Coudrey	Foelker	Hamlin
Barchfeld	Covington	Fordney	Hammond
Barclay	Cowles	Fornes	Hardwick
Barnard	Cox, Ohio	Foster, Ill.	Hardy
Barnhart	Cravens	Foster, Vt.	Harrison
Bartlett, Nev.	Creager	Fowler	Haugen
Bates	Crow	Fuller	Havens
Bennett, N. Y.	Crumpacker	Gaines	Hawley
Bennett, Ky.	Dalzell	Gallagher	Hayes
Bingham	Davidson	Gardner, Mass.	Head
Boehne	Davis	Gardner, Mich.	Henry, Conn.
Boutell	Dawson	Gardner, N. J.	Higgins
Bowers	Denby	Garner, Pa.	Hill
Bradley	Dies	Gill, Md.	Hinshaw
Burgess	Dodds	Gill, Mo.	Hitchcock
Burke, Pa.	Douglas	Gillett	Howard
Burke, S. Dak.	Draper	Glass	Howell, N. J.
Burleigh	Driscoll, M. E.	Goebel	Hubbard, W. Va.
Campbell	Dupre	Goldfogle	Huff
Capron	Durey	Good	Hughes, W. Va.
Carter	Ellis	Goulden	Hull, Iowa
Cassidy	Elvins	Graft	Humphrey, Wash.

Humphreys, Miss.	McCall	Parsons	Southwick
James	McCreary	Patterson	Sparkman
Johnson, Ky.	McCredie	Payne	Sperry
Johnson, Ohio	McDermott	Pearre	Stanley
Johnson, S. C.	McGuire, Okla.	Peters	Steenerson
Joyce	McHenry	Pickett	Stephens, Tex.
Kahn	McKinlay, Cal.	Plumley	Sterling
Kelifer	McKinley, Ill.	Polindexter	Stevens, Minn.
Kellher	McKinney	Pou	Sturgiss
Kennedy, Iowa	McLaughlin, Mich.	Pratt	Sulzer
Kennedy, Ohio	McMorran	Pray	Swasey
Kinkaid, Nebr.	Madden	Pujo	Talbot
Kinkead, N. J.	Mann	Ransdell, La.	Taylor, Colo.
Kitchin	Martin, S. Dak.	Reid	Taylor, Ohio
Knapp	Maynard	Rhinock	Thistlewood
Knowland	Miller, Minn.	Riordan	Thomas, Ohio
Kopp	Millington	Roberts	Townsend
Korbly	Mondell	Roddenberry	Vreeland
Kronmiller	Moon, Pa.	Rodenberg	Wallace
Küstermann	Moore, Pa.	Rothermel	Wanger
Lafean	Moore, Tex.	Rucker, Colo.	Washburn
Langham	Morehead	Sabath	Webb
Langley	Morrison	Saunders	Weeks
Latta	Morse	Scott	Weisse
Law	Moss	Shackleford	Wheeler
Legare	Moxley	Sharp	Wiley
Lenroot	Mudd	Sheffield	Willett
Lever	Murdoch	Sheppard	Wilson, Ill.
Lindbergh	Murphy	Sherley	Wilson, Pa.
Lindsay	Needham	Sherwood	Wood, N. J.
Lively	Nelson	Slayden	Woods, Iowa
Livingston	Nicholls	Small	Woodyard
Longworth	Norris	Smith, Cal.	Young, Mich.
Loud	O'Connell	Smith, Iowa	Young, N. Y.
Loudenslager	Page	Smith, Mich.	
Lowden	Palmer, A. M.	Smith, Tex.	
Lundin	Palmer, H. W.	Snapp	

The committee rose; and Mr. OLMSTED having assumed the chair as Speaker pro tempore, Mr. CURRIER, Chairman of the Committee of the Whole House, reported that that committee, having had under consideration bills on the Private Calendar and finding itself without a quorum, the roll was called, and he reported the list of absentees.

The SPEAKER pro tempore. The Chairman of the Committee of the Whole House reports that that committee, finding itself without a quorum, ordered the roll to be called under the rule, and reports the list of absentees. It appears from the roll that 117 Members are present—a quorum. The committee will resume its session.

Accordingly the committee resumed its session and the Clerk proceeded with the reading of the bill.

Mr. SIMS. Mr. Chairman, I ask unanimous consent that the further reading of the bill be dispensed with.

Mr. DWIGHT. I object.

The Clerk continued to read the bill, and read as far as line 17, page 101, when,

Mr. KENDALL. Mr. Chairman, I make the suggestion that only about a dozen Members of the House are present, and they are not devoting any attention to the reading of the bill. I therefore ask unanimous consent that the further reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent that the further reading of the bill be dispensed with. Is there objection?

Mr. MANN. I object; and as there is nobody here, I make the point that there is no quorum present.

The CHAIRMAN. The Chair will count.

Mr. HEFLIN. Mr. Chairman, I trust the gentleman from Illinois [Mr. MANN] will withdraw his point of no quorum. It is now 7 o'clock and we have been here since 10 o'clock this morning, and Republican Members have been filibustering all of that time for the purpose of defeating this bill.

The CHAIRMAN. Of course, the gentleman realizes that he is proceeding by unanimous consent, since under the rules the Chair is compelled to begin the count.

Mr. HEFLIN. Then I ask unanimous consent to speak a few minutes. I want to say a few things about this filibuster of the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, I do not believe we ought to waste the time of the House at this time in that way, and therefore I object.

Mr. HEFLIN. I supposed the gentleman would object.

The CHAIRMAN. The point of no quorum having been made, the Chair must proceed with the count.

Mr. CARLIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Mr. Chairman, we will first have to ascertain whether there is a quorum present.

Mr. CARLIN. It is with reference to ascertaining the presence of a quorum that I wish to make the inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CARLIN. It has been only about 15 minutes since the point of no quorum was made, and a quorum was disclosed.

The CHAIRMAN. But the gentleman's suggestion that the point of no quorum may be dilatory comes too late, as the Chair

was counting and no point of order had been made. The Chair will continue the count. [After counting.] Fifty-seven Members present—not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Ellis	Joyce	Pratt
Alexander, Mo.	Elvins	Kahn	Pray
Alexander, N. Y.	Esch	Kelifer	Rainey
Allen	Estopinal	Kellher	Ransdell, La.
Andrus	Fairchild	Kennedy, Ohio	Reeder
Ansberry	Fassett	Kinkaid, Nebr.	Reid
Anthony	Flsh	Kinkead, N. J.	Rhinock
Ashbrook	Fitzgerald	Kitchin	Riordan
Austin	Flood, Va.	Knapp	Roberts
Barchfeld	Focht	Knowland	Roddenberry
Barclay	Foelker	Korbly	Rodenberg
Barnard	Fordney	Kronmiller	Rothermel
Barnhart	Fornes	Küstermann	Rucker, Mo.
Bartlett, Ga.	Foster, Ill.	Lafean	Sabath
Bartlett, Nev.	Foster, Vt.	Langham	Saunders
Bates	Fowler	Langley	Scott
Bennet, N. Y.	Fuller	Latta	Shackleford
Bennett, Ky.	Gaines	Lenroot	Sharp
Bingham	Gallagher	Lindsay	Sheffield
Boehne	Gardner, Mass.	Lively	Sheppard
Booher	Gardner, Mich.	Livingston	Sherley
Borland	Gardner, N. J.	Lloyd	Sherwood
Boutell	Garner, Pa.	Longworth	Simmons
Bowers	Gill, Md.	Loud	Slayden
Bradley	Gill, Mo.	Loudenslager	Slomp
Burke, Pa.	Gillespie	Lowden	Small
Burke, S. Dak.	Gillett	Lundin	Smith, Cal.
Burleigh	Glass	McCall	Smith, Iowa
Burleson	Goebel	McCreary	Smith, Mich.
Burnett	Goldfogle	McCredie	Smith, Tex.
Byrd	Good	McDermott	Snapp
Calder	Goulden	McGuire, Okla.	Southwick
Calderhead	Graf	McHenry	Sparkman
Campbell	Graham, Ill.	McKinlay, Cal.	Sperry
Candler	Graham, Pa.	McKinley, Ill.	Stafford
Cantrill	Greene	McMorran	Steenerson
Capron	Gregg	Madden	Stephens, Tex.
Carter	Griest	Malby	Sterling
Cassidy	Guernsey	Martin, S. Dak.	Stevens, Minn.
Chapman	Hamer	Massey	Sturgiss
Clark, Fla.	Hamill	Maynard	Sulzer
Clark, Mo.	Hamilton	Mays	Swasey
Cline	Hamlin	Miller, Minn.	Talbot
Cocks, N. Y.	Hammond	Millington	Tawney
Cole	Hardwick	Mondell	Taylor, Colo.
Conry	Hardy	Moon, Pa.	Taylor, Ohio
Cooper, Pa.	Harrison	Moore, Pa.	Thistlewood
Coudrey	Haugen	Moore, Tex.	Thomas, Ky.
Covington	Havens	Morehead	Thomas, Ohio
Cox, Ohio	Hay	Morrison	Tilson
Craig	Hayes	Morrie	Tou Velle
Cravens	Heald	Moxley	Townsend
Cresger	Henry, Conn.	Mudd	Turnbull
Crow	Higgins	Murdoch	Volstead
Crumpacker	Hill	Murphy	Vreeland
Dalzell	Hinshaw	Needham	Wallace
Davidson	Hitchcock	Nelson	Wanger
Davis	Hobson	Nicholls	Washburn
Denby	Howard	Norris	Webb
Dent	Howell, N. J.	O'Connell	Weeks
Denver	Howland	Padgett	Weisse
Dickinson	Hubbard, Iowa	Page	Wheeler
Dickson, Miss.	Hubbard, W. Va.	Palmer, A. M.	Wiley
Diekema	Huff	Palmer, H. W.	Willett
Dies	Hughes, W. Va.	Parker	Wilson, Ill.
Dixon, Ind.	Hull, Iowa	Parsons	Wilson, Pa.
Dodds	Humphrey, Wash.	Patterson	Wood, N. J.
Douglas	Humphreys, Miss.	Payne	Woods, Iowa
Draper	James	Pearre	Woodyard
Driscoll, M. E.	Jamieson	Peters	Young, Mich.
Dupré	Johnson, Ky.	Pickett	Young, N. Y.
Durey	Johnson, Ohio	Plumley	
Ellerbe	Jones	Polindexter	

The committee rose; and Mr. OLMSTED having assumed the chair as Speaker pro tempore, Mr. CURRIER, Chairman of the Committee of the Whole House, reported that that committee, having had under consideration bills on the Private Calendar, had found itself without a quorum, and had ordered the roll to be called under the rule, and reported the list of absentees to the House.

The SPEAKER pro tempore. The Chairman of the Committee of the Whole House reports that that committee, having had under consideration bills on the Private Calendar and finding itself without a quorum, ordered the roll to be called, and he now reports the list of absentees. It appears from the roll that there are 84 Members present—not a quorum.

Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

Mr. THOMAS of North Carolina. Mr. Speaker, I move the call of the House.

The SPEAKER pro tempore. The motion to adjourn takes preference. The question is on the motion of the gentleman from Illinois that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 18, noes 51.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] demands the yeas and nays. All who are in favor

of demanding the yeas and nays will rise and stand until counted. [After counting.] There are 15 gentlemen standing; not a sufficient number.

Mr. MANN. I ask for the other side.

Mr. CARLIN. Mr. Speaker, I raise a point of order that the demand is dilatory.

The yeas and nays were refused.

Mr. UNDERWOOD. Mr. Speaker, I move a call of the House, and that the Sergeant at Arms be instructed to bring in absentees.

The SPEAKER pro tempore. The gentleman from Alabama moves a call of the House and that the Sergeant at Arms be instructed to bring in absentees.

The question was taken; and there were—ayes 56, noes 16.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANN] demands the yeas and nays. All who are in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] There are 13 gentlemen standing, not a sufficient number; and the yeas and nays are refused.

A call of the House is ordered. The doors will be closed, and the Sergeant at Arms will bring in absent Members.

The roll was called.

Mr. UNDERWOOD. Mr. Speaker, does the roll call show a quorum?

The SPEAKER pro tempore. The Chair is informed that it does not.

Mr. UNDERWOOD. I move that the Sergeant at Arms arrest the absentees and bring them before the House.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. UNDERWOOD] moves that the Sergeant at Arms arrest absentees and bring them to the bar of the House. The Chair thinks that motion is in order even in the absence of a quorum, as its manifest purpose is to secure the presence of a quorum.

The question is on the motion of the gentleman from Alabama [Mr. UNDERWOOD].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MANN. I demand a division.

The House divided; and there were—ayes 65, noes 12.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The yeas and nays are demanded. After counting the ayes—

Mr. MANN. I ask for the other side, Mr. Speaker.

The SPEAKER pro tempore. Upon this vote the ayes are 22, the noes are 76, and the yeas and nays are ordered.

The question was taken; and there were—yeas 121, nays 16, answered "present" 12, not voting 235, as follows:

YEAS—121.

Adair	Dent	Humphreys, Miss.	Prince
Adamson	Denver	Johnson, Ky.	Pujo
Ames	Dickinson	Johnson, S. C.	Railey
Anderson	Dickson, Miss.	Jones	Randell, Tex.
Ashbrook	Dixon, Ind.	Kendall	Richardson
Beall, Tex.	Driscoll, D. A.	Kitchin	Robinson
Bell, Ga.	Edwards, Ga.	Korbly	Rucker, Colo.
Borland	Ellerbe	Lamb	Rucker, Mo.
Brantley	Elvins	Langley	Saunders
Broussard	Estopinal	Latta	Sheppard
Burgess	Ferris	Law	Sherwood
Burke, S. Dak.	Finley	Lawrence	Sims
Burnett	Floyd, Ark.	Lee	Sisson
Byrd	Garner, Tex.	Legare	Slomp
Byrns	Garrett	Lever	Snapp
Candler	Gillespie	Lindbergh	Spight
Cantrill	Godwin	Lively	Sulloway
Carlin	Gordon	Lloyd	Taylor, Ala.
Cary	Grant	McKinney	Taylor, Colo.
Chapman	Hamlin	McLachlan, Cal.	Thistlewood
Clark, Fla.	Hardy	McLaughlin, Mich.	Thomas, Ky.
Clayton	Harrison	Macon	Thomas, N. C.
Cline	Hawley	Maguire, Nebr.	Tou Velle
Collier	Hay	Martin, Colo.	Turnbull
Cooper, Wis.	Hefflin	Mays	Underwood
Cowles	Helm	Mitchell	Watkins
Cox, Ind.	Henry, Tex.	Moon, Tenn.	Webb
Cullop	Hollingsworth	Morgan, Mo.	Wickliffe
Currier	Houston	Moss	
Dalzell	Hughes, Ga.	Oldfield	
Dawson	Hull, Tenn.	Page	

NAYS—16.

Driscoll, M. E.	Hull, Iowa	Mann	Pratt
Dwight	Kennedy, Iowa	Miller, Kans.	Southwick
Englebright	Küstermann	Morgan, Okla.	Sterling
Hanna	Langham	Nye	Tilson

ANSWERED "PRESENT"—12.

Butler	Edwards, Ky.	Howell, Utah	Pickett
Calderhead	Foster, Ill.	Kopp	Reeder
Carter	Graham, Ill.	Olmsted	Simmons

NOT VOTING—235.

Aiken	Fitzgerald	Kelfer	Peters
Alexander, Mo.	Flood, Va.	Kelher	Plumley
Alexander, N. Y.	Focht	Kennedy, Ohio	Poindexter
Allen	Foelker	Kinkaid, Nebr.	Pou
Andrus	Fordney	Kinkaid, N. J.	Pray
Ansberry	Fornes	Knapp	Ransdell, La.
Anthony	Foss	Knowland	Rauch
Austin	Foster, Vt.	Arnonmiller	Reld
Barchfeld	Fowler	Lafean	Rhinock
Barclay	Fuller	Lenroot	Riordan
Barnard	Gaines	Lindsay	Roberts
Barnhart	Gallagher	Livingston	Roddenbery
Bartholdt	Gardner, Mass.	Longworth	Rodenberg
Bartlett, Ga.	Gardner, Mich.	Loud	Rothermel
Bartlett, Nev.	Gardner, N. J.	Loudenslager	Sabath
Bates	Garner, Pa.	Lowden	Scott
Bennet, N. Y.	Gill, Md.	Lundin	Shackelford
Bennett, Ky.	Gill, Mo.	McCall	Sharp
Bingham	Gillett	McCreary	Sheffield
Boehne	Glass	McCredie	Sherley
Booher	Goebel	McDermott	Slayden
Boutell	Goldfogle	McGuire, Okla.	Small
Bowers	Good	McHenry	Smith, Cal.
Bradley	Goulden	McKinlay, Cal.	Smith, Iowa
Burke, Pa.	Graft	McKinlay, Ill.	Smith, Mich.
Burleigh	Graham, Pa.	McMorran	Smith, Tex.
Burleson	Greene	Madden	Sparkman
Calder	Grieg	Maddison	Sperry
Campbell	Griest	Malby	Stafford
Capron	Guernsey	Martin, S. Dak.	Stanley
Cassidy	Hamer	Masses	Steenerson
Clark, Mo.	Hamill	Maynard	Stevens, Tex.
Cocks, N. Y.	Hamilton	Miller, Minn.	Stevens, Minn.
Cole	Hammond	Millington	Sturgiss
Conry	Hardwick	Mondell	Sulzer
Cooper, Pa.	Haugen	Moore, Pa.	Swasey
Coudrey	Havens	Moore, Pa.	Talbott
Corvington	Hayes	Moore, Tex.	Talway
Cox, Ohio	Heald	Morehead	Taylor, Ohio
Craig	Henry, Conn.	Morrison	Thomas, Ohio
Cravens	Higgins	Morse	Townsend
Creager	Hill	Moxley	Volstead
Crow	Hinshaw	Mudd	Vreeland
Crumpacker	Hitchcock	Murdock	Wallace
Davidson	Hobson	Murphy	Wanger
Davis	Howard	Needham	Washburn
Denby	Howell, N. J.	Nelson	Weeks
Diekema	Howland	Nicholls	Weisse
Dies	Hubbard, Iowa	Norris	Wheeler
Dodds	Hubbard, W. Va.	O'Connell	Wiley
Douglas	Huff	Olcott	Willett
Draper	Hughes, N. J.	Padgett	Wilson, Ill.
Dupre	Hughes, W. Va.	Palmer, A. M.	Wilson, Pa.
Durey	Humphrey, Wash.	Palmer, H. W.	Wood, N. J.
Ellis	James	Parker	Woods, Iowa
Esch	Jamieson	Parsons	Woodard
Fairchild	Johnson, Ohio	Patterson	Young, Mich.
Fassett	Joyce	Payne	Young, N. Y.
Fish	Kahn	Pearre	

So the motion was agreed to.

During the roll call the following occurred:

Mr. CARLIN. Mr. Speaker, a parliamentary inquiry. I would like to know if the call has not disclosed a quorum present.

The SPEAKER pro tempore. A quorum is not required to be present to vote upon this, and nothing is in order during the call. The Clerk will proceed with the call.

The Clerk announced the following additional pairs:

On this vote:

Mr. WEEKS with Mr. FOSTER of Vermont.

Mr. WANGER with Mr. KOPP.

For balance of day:

Mr. FOSS with Mr. FLOOD of Virginia.

Mr. PLUMLEY with Mr. STEPHENS of Texas.

Mr. NORRIS with Mr. CARTER.

Mr. KINKAID of Nebraska with Mr. SMITH of Texas.

Mr. MCKINLEY of Illinois with Mr. BURLSON.

Mr. WILEY with Mr. COX of Ohio.

Mr. HAYES with Mr. MORRISON.

Mr. HENRY of Connecticut with Mr. GRAHAM of Illinois.

Mr. NEEDHAM with Mr. FOSTER of Illinois.

Mr. O'CONNELL (against) with Mr. BOOHER (in favor).

Mr. TAYLOR of Ohio with Mr. SHERLEY.

Mr. HINSHAW with Mr. BOEHNE.

Mr. STERLING with Mr. CLINE.

Mr. BENNET of New York with Mr. CLARK of Missouri.

Until further notice:

Mr. PEARRE with Mr. WALLACE.

Mr. MALBY with Mr. STANLEY.

Mr. ESCH with Mr. SMALL.

Mr. MADDEN with Mr. SHACKLEFORD.

Mr. CRUMPACKER with Mr. PETERS.

Mr. COOPER of Pennsylvania with Mr. PADGETT.

Mr. HENRY W. PALMER with Mr. NICHOLLS.

Mr. KAHN with Mr. MCHENRY.

Mr. GRIEST with Mr. KELIHER.

Mr. BURKE of Pennsylvania with Mr. JAMIESON.

Mr. BINGHAM with Mr. HITCHCOCK.
 Mr. GREENE with Mr. HAVENS.
 Mr. DRAPER with Mr. FITZGERALD.
 Mr. BARTHOLOMT with Mr. CRAIG.
 Mr. SULLOWAY with Mr. MOSS.
 Mr. TAWNEY with Mr. ALEXANDER of Missouri.
 Mr. BARNARD with Mr. HAMMOND.
 Mr. HAMILTON with Mr. AIKEN.
 Mr. AUSTIN with Mr. ANSBERRY.
 Mr. BARCHFELD with Mr. BARTLETT of Nevada.

For the session:

Mr. BUTLER with Mr. BARTLETT of Georgia.

Mr. HIGGINS. Mr. Speaker, how am I recorded?

The SPEAKER pro tempore. The gentleman is not recorded.

Mr. HIGGINS. I would like to vote "no."

The SPEAKER pro tempore. Was the gentleman present and listening when his name was called?

Mr. HIGGINS. I was not; I understood it was a call of the House.

The SPEAKER pro tempore. No; it is not a call of the House. Upon this vote the yeas are 121, the nays are 16, present 12. The yeas have it, and the motion prevails. The execution of the order of the House requires the issuance of a warrant or warrants, and in order that there may be no doubt of the authority of the present occupant of the Chair to issue and sign such warrants, the Clerk will read the following designation by the Speaker.

The Clerk read as follows:

FEBRUARY 17, 1911.

I hereby designate the Hon. MARLIN E. OLMSTED, of Pennsylvania, as Speaker pro tempore this day.

J. G. CANNON, Speaker.

The SPEAKER pro tempore. The Sergeant at Arms will be directed to arrest absent Members, as directed by order of the House, and present them at the bar of the House.

Mr. CLAYTON. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from Alabama rise?

Mr. CLAYTON. I rise, Mr. Speaker, to ask unanimous consent to make a few remarks. [Cries of "Hear!" "Hear!"]

The SPEAKER pro tempore. The Chair can entertain nothing but a motion to adjourn.

Mr. CLAYTON. Mr. Speaker, I thought I would at least add to the instructiveness of the occasion or perhaps to its festivity by making a few remarks. [Laughter.] I therefore hope that I may have unanimous consent for that purpose.

Mr. LANGLEY. Mr. Speaker, I reserve the right to object. I would like to ask the gentleman if his remarks will be of a nonpartisan character.

Mr. CLAYTON. They will be of a nonpartisan character; yes, sir. [Laughter.]

Mr. LANGLEY. Upon what subject? [Laughter.]

Mr. CLAYTON. On the state of the Union, the good of the order, and the patriotism involved in the payment of war claims. [Laughter and applause.]

Mr. LANGLEY. I will not object to the discussion of any such subject.

Mr. CLAYTON. Mr. Speaker, do I understand that I have unanimous consent?

The SPEAKER pro tempore. The Chair is not authorized in the absence of a quorum to do anything more than to execute the orders of the House.

Mr. LANGLEY. Mr. Speaker, a parliamentary inquiry. Will the gentleman be ordered to be arrested if he proceeds to speak without anybody's consent? [Laughter.]

The SPEAKER pro tempore. The Chair will not rule until such a situation arises. When such an incident occurs and a point of order is made the Chair will pass upon it.

Mr. CLAYTON. Mr. Speaker, in the absence of an express ruling from the Chair, I shall take it for granted that I have the permission of the House to proceed. [Laughter and applause.]

Mr. Speaker, this is a serious occasion. It promises to be as serious as that celebrated filibuster when Mr. Butler of Missouri was turned out of this House by the party then in control of this House—and, thank God, soon to cease its control. [Cries of "Oh!" "Oh!" and "Regular order!"] Hear me for my cause, and be silent that you may hear, and believe me for mine honor, in order that you may pass a just war-claims bill. [Laughter and cries of "Good!"]

Mr. Speaker, the last bill of the character of the two omnibus claims bills now pending before the House that passed the Congress was considered in February, 1905. Since that day Congress has met and Congress has carried on the other legislation of the country and adjourned without passing a measure of this character, which the dictates of justice require. Now, it

has come to pass that we have, from the Committee on War Claims, upward of \$750,000, in round numbers, of just adjudicated war claims, passed on by the Court of Claims, said to be honest, said to be proper and lawful, and such as the conscience of the country demands shall be paid.

Mr. PRINCE. Mr. Speaker, does the gentleman yield for a question?

Mr. CLAYTON. I yield for a question, certainly. The gentleman was courteous enough to participate in giving me unanimous consent.

Mr. PRINCE. I would like to ask what does the gentleman think of the French spoliation claims. [Laughter.]

Mr. CLAYTON. Mr. Speaker, I will get through with one subject at a time. [Laughter and applause.] There were people who were interested in the French spoliation claims, I may say, many years gone by, but they have been so long dead and have been succeeded by so many generations of heirs that perhaps the French spoliation claims may wait a little bit longer. [Laughter.] But these \$750,000 of just and adjudicated war claims are modern claims about which there is no dispute. These claims were referred to a court deliberately created by a solemn act of Congress. The evidence was heard, the law was expounded, and the findings on the law and facts were returned to Congress pursuant to your resolution. These claims have been from year to year embodied in a bill by the War Claims Committee and reported to the House, and yet session after session of Congress has passed and no action has been taken upon them.

Now, I appeal to gentlemen not to treat this as a matter of levity. You take it throughout the country—North and East and South, but for the most part in the South, for the South suffered more from the ravages of the Civil War than any other section of the country—and you will find that these claims are held in part by widows and other people sadly in need of the comforts of life. Many others are for the payment of church property, and some are for the payment of property of the Masonic order and other benevolent fraternities.

I can take you South and to other parts of the Union and can show you into homes of some of these claimants where once affluence abounded, where penury was unknown, and now there is abject poverty. And these claims, long deferred, are a reflection upon the sense of justice and the sense of fairness of our Government, and it is a shame upon the good conscience of our common country to longer delay their payment. [Applause.] Gentlemen, let us not make a partisan matter of this. You can read the court's findings, the reports of your committee, and you will know, if you do not already know, that these claims ought to be paid and that we ought to pass this bill to-night.

Mr. RICHARDSON. Will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. RICHARDSON. I would like to call the gentleman's attention, in that connection, to what the President of the United States said:

I invite the attention of Congress to the great number of claims which at the instance of Congress have been considered by the Court of Claims and decided to be valid claims against the Government. The delay that occurs in the payment of the money due under the claims injures the reputation of the Government as an honest debtor, and I earnestly recommend that these claims which come to Congress with the judgment and approval of the Court of Claims be promptly paid.

Mr. CLAYTON. And that is a just and patriotic utterance, and every man in this House ought to indorse it by enacting this bill into law. [Applause.]

Mr. Speaker, this matter ought not to be treated lightly. It ought not to be treated as a matter of partisanship. I may recall what was said to me to-day by one of the most accomplished and one of the fairest Members of this House. He is a Republican of service, ability, and experience. He told me that in a matter recently brought to his attention by one of his constituents who sought his advice, where the Government proposed to be a party and his constituent the other party to a business transaction, he said to his constituent, "Beware; do not go into a business transaction with the Government unless you are sure to have it in writing and have double assurance that you will be paid. For," he said, "however just your claim may be against the Government, however it may appeal to the honesty and conscience of men, and even if you have it in such shape where you have a writing and assurance, you may depend upon it that, after you are dead and gone, your children or your grandchildren may get a part of what is due you; but most likely you will never live to see the day that your claim will be paid." [Applause.]

Deferred payment of these claims is a reflection on the Government. It has shocked the conscience of the Chief Executive of our country. Gentlemen, are we to trifle with the right and just claims of individuals? Every day, nearly, we recognize the

just claims of men to the bounty of the Government. We say the Government ought to be generous to the old soldiers, disabled on account of war, and Congress has been most generous. But, Mr. Speaker, there is a principle higher than generosity, and that is justice. [Applause.] And the Government ought always to be just before it is generous, or at least as just as generous. Let us be just to these people and pay these claims so that the Government may no longer have the stigma placed upon its fair name, so that no longer it will be necessary for the Chief Magistrate of the Nation to urge Congress to do its duty in this particular. [Applause.]

Mr. CARLIN. Will the gentleman yield?

Mr. CLAYTON. Certainly.

Mr. CARLIN. I would like to hear the gentleman's views upon an assertion that has been frequently made in the House that it is always in the power of the majority of the House to legislate when it cared to do so.

Mr. CLAYTON. I am afraid that I shall trespass on the domain of partisan politics if I enter into that subject. If I should express an opinion, I might indulge in some strictures against the Members who have inaugurated and conducted this filibuster to-night. I would rather instead of criticizing them for what they have done appeal to their sense of justice and fairness and right to let us take up the war-claims bill and pass it here and now. I thank you for your kind attention. [Applause.]

Mr. RUCKER of Missouri. Mr. Speaker—

Mr. MANN. Mr. Speaker, I make the point of order that no debate can take place in the House in the absence of a quorum.

Mr. RUCKER of Missouri. Mr. Speaker, I would like to answer a few things that the gentleman from Alabama [Mr. CLAYTON] said a few moments ago.

Mr. MANN. We ought to have a quorum in order that the gentleman may do it.

The SPEAKER pro tempore. The point of order being made, the Chair must sustain it. Debate is not in order in the absence of a quorum.

Mr. RUCKER of Missouri. Mr. Speaker—

Mr. MANN. Mr. Speaker, I demand the regular order.

Mr. RUCKER of Missouri. Oh, the gentleman does not want to do that.

Mr. MANN. I do want to do it.

Mr. RUCKER of Missouri. Do you? Well, do it and do it again. Mr. Speaker—

Mr. CLARK of Florida. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CLARK of Florida. I would like to ask if there is not now a quorum present.

The SPEAKER pro tempore. The roll call does not disclose a quorum.

Mr. CLARK of Florida. Mr. Speaker, I move that we proceed with the reading of the bill.

The SPEAKER pro tempore. The Chair is unable to entertain that motion in the absence of a quorum.

Mr. UNDERWOOD. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. UNDERWOOD. I rise to inquire whether a quorum has appeared.

The SPEAKER pro tempore. The Chair is informed that it has not.

Mr. RUCKER of Missouri. Mr. Speaker, I rose about 15 minutes ago, more or less, to ask a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RUCKER of Missouri. Mr. Speaker, I have just had that inquiry partly answered by the Chair stating that a quorum is not present.

The SPEAKER pro tempore. That is correct.

Mr. RUCKER of Missouri. May I inquire, if it is proper, how many Members we lack of having a quorum?

The SPEAKER pro tempore. The Chair is informed by the Clerk that we are still 20 short of a quorum.

Mr. RUCKER of Missouri. Mr. Speaker, the question I am trying to get at is this: The process of the House is suspended, held up in the air, strung up until we get those 20, is it not? Is that true?

The SPEAKER pro tempore. Under the rules it is impossible to transact business without a quorum, the absence of a quorum having been ascertained.

Mr. RUCKER of Missouri. In other words, when there is an absence of a quorum and a gentleman makes the point and demands a roll call and the roll call discloses there is not a quorum present, we can not do a darned thing but talk. [Applause and laughter.]

Mr. STANLEY. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman from Kentucky rise?

Mr. STANLEY. To know whether I am here or not. [Laughter.]

The SPEAKER pro tempore. The Chair is informed by the Clerk that the gentleman is here. [Laughter.]

Mr. CLARK of Florida. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. CLARK of Florida. To make a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CLARK of Florida. I would like to know whether the record shows that the gentleman from Illinois [Mr. MANN] is present.

The SPEAKER pro tempore. That is hardly a parliamentary inquiry.

Mr. MANN. Mr. Speaker, I answered to the roll, and I doubt whether the gentleman from Florida did.

Mr. RUCKER of Missouri. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. RUCKER of Missouri. I rise to state to the Chair that I have a very important message from an old soldier who lives in Illinois, which I would like to deliver to this House if I can have two or three minutes.

Mr. MANN. Mr. Speaker, I demand the regular order.

Mr. RUCKER of Missouri. Mr. Speaker, the trouble about it is if there is a quorum here we are going to be so busy that I will not have time to talk. I want only about two or three minutes. There is no politics in it and no personalities, just a clear statement of fact.

Mr. KENDALL. Mr. Speaker, I demand the regular order.

Mr. RUCKER of Missouri. Do I understand I have consent to speak?

Mr. MANN. Not exactly.

Mr. HEFLIN. Mr. Speaker, a parliamentary inquiry. How many Members are present?

The SPEAKER pro tempore. The Chair is informed that there are about 16 less than a quorum.

Mr. HEFLIN. Mr. Speaker, I ask the Chair how many Members are present. How many does the roll show are present?

The SPEAKER pro tempore. The Chair is informed that the roll call shows that 181 gentlemen are now present.

Mr. RUCKER of Missouri. Mr. Speaker, I want to tell the House about an old soldier. I want to call attention to the fact that an old soldier by the name of Francis M. Shepherd, who used to live in the same State that Lincoln once lived in, and in which the gentleman from Illinois now lives, when the war came on—

Mr. MANN. Mr. Speaker, I demand the regular order.

Mr. RUCKER of Missouri. Mr. Speaker, there is no regular order, except to let the gentleman take his seat [laughter] and let me have the floor for about two minutes, and then I will sit down.

Mr. MANN. After we get a quorum, Mr. Speaker, I will ask unanimous consent that the gentleman have 20 minutes.

Mr. RUCKER of Missouri. This old soldier for four years followed the flag of his country. [Applause and cheers.] Mr. Speaker, can not we have better order? I will stand here all night, if I have to, to make my speech.

If you gentlemen will give me a few minutes I will tell you a very interesting story. This old man—

Mr. BROUSSARD. How old is he?

Mr. RUCKER of Missouri. He is old enough to have fought for nearly four years in the service of his country. He is to-night, in all probability, on a bed of sickness. For 50 years he has pleaded with the Government that he fought to perpetuate and preserve—

Mr. MANN. Mr. Speaker, I demand the regular order. There will be time enough for debate when we have a quorum.

Mr. RUCKER of Missouri. Will not the gentleman himself keep in regular order for a minute or two?

Mr. MANN. I will; and that is more than the gentleman from Missouri will do.

The SPEAKER pro tempore. In the absence of a quorum debate is not in order.

Mr. RUCKER of Missouri. I have the floor, and the gentleman from Illinois [Mr. MANN] can not take me off. The Sergeant at Arms is away hunting up absentees, and, Mr. Speaker, I have the floor, and, as I have assurances of protection from gentlemen on that side, I am going to hold it.

The SPEAKER pro tempore. Under the rule, debate is not in order.

Mr. RUCKER of Missouri. I am not going to debate. I am only relating a narrative.

Mr. MANN. I hope the gentleman will retain this interesting story until we have a quorum, and then he will get his full measure of appreciation.

Mr. RUCKER of Missouri. While this old man was performing his duty faithfully and well, with courage and patriotism, his general took from him \$830 in money and confiscated \$454 of it, and the Government has had the balance ever since.

He took it from this man while he had a musket on his shoulder and a knapsack on his back, and the Government has used part of the money and has had the rest of it in its possession for nearly 50 years. We are now trying to get it back. The reason it has not been paid back is because the Court of Claims finds, among other things, that the old soldier did not prove that he had not won it in a game.

But, Mr. Speaker, this brings me back again to that old soldier. [Laughter.] The time will come, if the gentleman from Illinois [Mr. MANN] can be suppressed long enough, when we will get to this bill, and I am going to ask this House to do justice to that old soldier. I do not believe the committee in reporting this bill has done him justice. It recommends only \$376 instead of \$830, and the reason alleged for it is that some pretended or sham tribunal held a kind of inquest on this man's case and came to the conclusion that \$454 had been won in a game called "chuck-a-luck."

I want to say the Government, according to its own records, took from this old soldier \$454, even money, on the theory that he had won it in some kind of a game. They did not return one dollar to the man who is alleged or supposed to have lost it, but the general of that regiment ordered the money to be expended for the expense of the company, and the records so show. The Federal officer in charge spent this soldier's money, or caused it to be spent, to supply the troops with necessary supplies, and the Government now refuses to refund it because it is supposed the old soldier won it in a game.

The Government used the tainted money, but refuses to pay it back. And let me say—most of you gentlemen are lawyers and those who are not lawyers have been on juries or around court rooms—50 years ago this old man, when he was told that \$454 of his money was to be confiscated by the Government because it had been won in a game, emphatically denied the charge, and when his officer offered to pay him back \$376 he at the time positively refused to accept it for the reason that the entire \$830 was his, honestly acquired, and he wanted all or none. He said to the general of his regiment, he said to all of his officers, that the charge was false; that every dollar of this money was honestly earned by him and that he would not accept one dollar unless they refunded it all, and for 50 years he has stuck to that, and you gentlemen know that is part of the res gesta, and to my mind conclusively refutes the charge. That man's statement was true then, as the affidavit he made a few days ago on his sick bed is true. And, gentlemen of this House, I am going to ask you to stand by this meritorious claim and do full justice, so long delayed, to this claimant.

Gentlemen, I am not pleading by reason of personal friendship; I am pleading because it is my duty to represent the honest constituency in the district I represent, and this old man, whom I have known for 30 years—

Mr. CLARK of Florida. Mr. Speaker, I make the point that a quorum is not present.

The SPEAKER pro tempore. The Chair is informed a quorum is not present.

Mr. CLARK of Florida. I move a call of the House. Is it in order to move a call of the House to determine whether there is a quorum present or not?

The SPEAKER pro tempore. We are in the midst of a call now.

Mr. RUCKER of Missouri. This man is old, infirm, and impoverished, and will not live, in all human probability, until Congress assembles again. I plead with this House at the present time to let me send to him by the electric wire the glad tidings that this House to-day surrenders back to him the money that it took from him 50 years ago; and this amount of money, \$850, let me say to you, let me give you my absolute assurance, will meet his necessary expenses until the angel of death summons him across the Great Divide.

Mr. Speaker, I thank you for the courtesy which you have shown me in permitting me to address the House. [Loud applause.]

The SPEAKER pro tempore. The total membership of this House, if all districts were represented, would be 391. But by reason of death there are six districts not represented, so the membership at present is 385, of which number 193 con-

stitutes a quorum. There are now 193 Members present—a quorum.

The following Members failed to answer to their names:

Alexander, Mo.	Flood, Va.	Kronmiller	Plumley
Alexander, N. Y.	Foelker	Lafean	Pointexter
Allen	Fornes	Langham	Pray
Andrus	Foss	Lenroot	Ransdell
Ansberry	Foster, Vt.	Lindsay	Reid
Anthony	Fowler	Livingston	Rhinock
Barchfeld	Fuller	Longworth	Riordan
Barclay	Gaines	Loud	Roberts
Bartlett, Ga.	Gallagher	Loudenslager	Roddenberry
Bartlett, Nev.	Gardner, Mass.	Lowden	Rodenberg
Bates	Gardner, Mich.	Lundin	Sabath
Bennet, N. Y.	Garner, Pa.	McCall	Scott
Boutell, Ky.	Gill, Md.	McCreary	Sharp
Bowers	Gill, Mo.	McCredie	Sheffield
Bradley	Gillett	McDermott	Sherley
Burke, Pa.	Glass	McGuire, Okla.	Slayden
Burleigh	Goebel	McKinlay, Cal.	Small
Burleson	Goldfogle	McKinley, Ill.	Smith, Cal.
Calder	Goulden	McMorran	Smith, Mich.
Campbell	Graham, Pa.	Madden	Smith, Tex.
Capron	Gregg	Madison	Sparkman
Cassidy	Griest	Malby	Sperry
Clark, Mo.	Hamer	Martin, S. Dak.	Stephens, Tex.
Cocks, N. Y.	Hamill	Miller, Minn.	Stevens, Minn.
Cole	Hamilton	Millington	Sturgiss
Conry	Hardwick	Mondell	Sulzer
Cooper, Pa.	Haugen	Moon, Pa.	Swasey
Coudrey	Havens	Moore, Pa.	Talbot
Covington	Hayes	Moore, Tex.	Tawney
Cox, Ohio	Heald	Morehead	Taylor, Ohio
Craig	Henry, Conn.	Morrison	Townsend
Cravens	Hill	Morse	Vreeland
Creager	Hinshaw	Moxley	Wallace
Crow	Hitchcock	Mudd	Wanger
Dalzell	Howard	Murdock	Washburn
Denby	Hubbard, W. Va.	Murphy	Weeks
Dies	Huff, Pa.	Needham	Weisse
Dodds	Hull, Iowa	Nelson	Wheeler
Douglas	Humphrey, Wash.	Nicholls	Wiley
Drapar	James	Norris	Willett
Dupré	Jamieson	O'Connell	Wilson, Pa.
Durey	Johnson, Ohio	Palmer, A. M.	Wood, N. J.
Esch	Joyce	Palmer, H. W.	Woods, Iowa
Fairchild	Kelfer	Parker	Woodyard
Fassett	Kennedy, Ohio	Parsons	Young, Mich.
Fish	Kinkaid, Nebr.	Patterson	Young, N. Y.
Fitzgerald	Kinkaid, N. J.	Payne	
	Knowland	Peters	

Mr. UNDERWOOD. Mr. Speaker, I move that the House dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER pro tempore. The Doorkeeper will open the doors.

Mr. UNDERWOOD. Mr. Speaker, I move that the House take a recess until to-morrow morning at 11 o'clock.

Mr. MANN. I demand the regular order, Mr. Speaker.

I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of bills on the Private Calendar in order to-day.

The SPEAKER pro tempore. The Chair is of the opinion that the motion to go into Committee of the Whole House is a preferential motion.

Mr. PRINCE. Mr. Speaker, I make a point of order against the motion of the gentleman from Illinois [Mr. MANN].

The SPEAKER pro tempore. The Chair overrules the point of order.

Mr. PRINCE. Just wait a moment, Mr. Speaker, for this suggestion.

The SPEAKER pro tempore. The Chair will hear the gentleman if he so desires.

Mr. PRINCE. The gentleman from Illinois [Mr. MANN] made a motion to go into the Committee of the Whole House on the state of the Union.

Mr. MANN. Committee of the Whole House.

Mr. PRINCE. So I make my point of order and insist upon it.

Mr. MANN. For consideration of business on the Private Calendar in order to-day.

Mr. PRINCE. I do not object to that motion. That is right. We want things done in the right way.

The SPEAKER pro tempore. The point of order of the gentleman from Illinois [Mr. PRINCE] would be sustained as to a motion to go into a Committee of the Whole House on the state of the Union, but the Chair understands the motion of his colleague [Mr. MANN] is to go into the Committee of the Whole House for consideration of bills on the Private Calendar.

The question is on the motion of the gentleman from Illinois [Mr. MANN].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. CARLIN. Division, Mr. Speaker.

The House divided; and there were—ayes 11, noes 98. So the motion was rejected.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now take a recess.

Mr. STAFFORD. Mr. Speaker, I make the point that no quorum is present.

Mr. UNDERWOOD. Mr. Speaker, I make the point of order that that is dilatory. We have just had a call of the House, which has shown that a quorum is present.

The SPEAKER pro tempore. The call of the House just had showed that a quorum was present. The Chair sustains the point of order of the gentleman from Alabama [Mr. UNDERWOOD] that that motion is dilatory.

Mr. UNDERWOOD. I move, Mr. Speaker, that the House take a recess until to-morrow morning at 10 o'clock.

Mr. MANN. Mr. Speaker, I demand the regular order, and I move that the House dispense with the proceedings in order to-day on the Private Calendar.

The SPEAKER pro tempore. The Chair thinks that the motion of the gentleman from Illinois [Mr. MANN] is in order. The gentleman from Illinois moves and desires to dispense with business in order on the Private Calendar.

The question was taken; and on a division there were—ayes 38, noes 120.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present, as disclosed by the vote.

The SPEAKER pro tempore. The gentleman from Illinois makes the point of order that there is no quorum present, as disclosed by the vote.

Mr. UNDERWOOD. Mr. Speaker, I make the point of order that that is dilatory.

Mr. MANN. Mr. Speaker, it is never dilatory to make the point of order that there is no quorum present.

Mr. CLAYTON. Will not the Speaker kindly count, to ascertain a quorum?

The SPEAKER pro tempore (after counting). One hundred and eighty present—not a quorum. A quorum having failed on this vote, the doors will be closed, the Sergeant at Arms will bring in absent Members, and the Clerk will call the roll. Those in favor of the motion of the gentleman from Illinois, when their names are called, will answer "yea;" those opposed will answer "nay." Those not voting will answer "present."

Mr. CLAYTON. Mr. Speaker, what is the question?

The SPEAKER pro tempore. The question is on the motion of the gentleman from Illinois [Mr. MANN] to dispense with the business on the Private Calendar in order under the rules to-day.

Mr. CLAYTON. Patriots, vote "No!" [Laughter and applause.]

The question was taken; and there were—yeas 29, nays 145, answered "present" 19, not voting 191, as follows:

YEAS—29.

Burke, S. Dak.	Howell, Utah	Moxley	Steenerson
Driscoll, M. E.	Howard	Norris	Sterling
Ellis	Hubbard, Iowa	Nye	Tilson
Englebright	Kahn	Olmsted	Volstead
Fordney	Kennedy, Iowa	Parker	Wilson, Ill.
Gardner, N. J.	Lawrence	Rosenberg	
Graff	Mann	Smith, Iowa	
Hanna	Miller, Kans.	Stafford	

NAYS—145.

Adair	Dixon, Ind.	Jones	Pou
Adamson	Driscoll, D. A.	Keliber	Pray
Alken	Edwards, Ga.	Kendall	Prince
Ames	Edwards, Ky.	Kitchin	Pujo
Anderson	Ellerbe	Kopp	Rainey
Austin	Estopinal	Korbly	Randell, Tex.
Beall, Tex.	Ferris	Küstermann	Rauch
Bell, Ga.	Finley	Lamb	Richardson
Borland	Floyd, Ark.	Langham	Robinson
Brantley	Focht	Langley	Rothermel
Broussard	Garner, Tex.	Latta	Rucker, Colo.
Burgess	Garrett	Law	Rucker, Mo.
Burnett	Gillespie	Lee	Saunders
Byrns	Godwin	Legare	Shackelford
Calderhead	Good	Lever	Sheppard
Candler	Gordon	Lively	Sherwood
Cantrill	Grant	Lloyd	Sims
Carlin	Greene	McHenry	Sisson
Cary	Hamlin	McKinney	Small
Chapman	Hardy	McLachlan, Cal.	Southwick
Clark, Fla.	Harrison	McLaughlin, Mich.	Spight
Clayton	Haugen	Macon	Stanley
Cline	Hawley	Maguire, Nebr.	Sulloway
Collier	Hay	Martin, Colo.	Taylor, Ala.
Cooper, Wis.	Heflin	Massey	Taylor, Colo.
Cowles	Helm	Maynard	Thistlewood
Cox, Ind.	Henry, Tex.	Mays	Thomas, Ky.
Craig	Higgins	Mitchell	Thomas, N. C.
Cullop	Hobson	Moon, Tenn.	Tou Velle
Davidson	Hollingsworth	Morgan, Mo.	Turnbull
Davis	Houston	Morgan, Okla.	Underwood
Dawson	Hughes, Ga.	Moss	Watkins
Dent	Hull, Tenn.	Nicholls	Webb
Denver	Humphreys, Miss.	Oldfield	Wickliffe
Dickinson	Jamieson	Padgett	
Dickson, Miss.	Johnson, Ky.	Page	
Diekema	Johnson, S. C.	Pearre	

ANSWERED "PRESENT"—19.

Andrus	Cole	Hammond	Pickett
Barnard	Crumpacker	Hill	Simmons
Bingham	Currier	Hughes, N. J.	Swasey
Booher	Foster, Ill.	Knapp	Taylor, Ohio
Butler	Graham, Ill.	Lindbergh	

NOT VOTING—191.

Alexander, Mo.	Esch	Keller	Peters
Alexander, N. Y.	Fairchild	Kennedy, Ohio	Plumley
Allen	Fassett	Kinkaid, Nebr.	Poindexter
Ansberry	Fish	Kinkaid, N. J.	Pratt
Anthony	Fitzgerald	Knowland	Ransdell, La.
Ashbrook	Flood, Va.	Kronmiller	Reeder
Barchfeld	Foelker	Lafean	Reid
Barclay	Fornes	Lenroot	Rhinock
Barnhart	Foss	Lindsay	Riordan
Bartholdt	Foster, Vt.	Livingston	Roberts
Bartlett, Ga.	Fowler	Longworth	Roddenberry
Bartlett, Nev.	Fuller	Loud	Sabath
Bates	Gaines	Loudenslager	Scott
Bennet, N. Y.	Gallagher	Lowden	Sharp
Bennett, Ky.	Gardner, Mass.	Lundin	Sheffield
Boehne	Gardner, Mich.	McCall	Sherley
Boutell	Garner, Pa.	McCreary	Slayden
Bowers	Gill, Md.	McCredie	Slemp
Bradley	Gill, Mo.	McDermott	Smith, Cal.
Burke, Pa.	Gillett	McGuire, Okla.	Smith, Mich.
Burleigh	Glass	McKinlay, Cal.	Smith, Tex.
Burleson	Goebel	McKinley, Ill.	Snapp
Byrd	Goldfogle	McMorran	Sparkman
Calder	Goulden	Madden	Sperry
Campbell	Graham, Pa.	Madison	Stephens, Tex.
Capron	Gregg	Malby	Stevens, Minn.
Carter	Griest	Martin, S. Dak.	Sturgiss
Cassidy	Guernsey	Miller, Minn.	Sulzer
Clark, Mo.	Hamer	Millington	Talbot
Cocks, N. Y.	Hamill	Mondell	Tawney
Conry	Hamilton	Moon, Pa.	Thomas, Ohio
Cooper, Pa.	Hardwick	Moore, Pa.	Townsend
Coudrey	Havens	Moore, Tex.	Vreeland
Covington	Hayes	Morehead	Wallace
Cox, Ohio	Heald	Morrison	Wanger
Cravens	Henry, Conn.	Morse	Washburn
Creager	Hinshaw	Mudd	Weeks
Crow	Hitchcock	Murdock	Weisse
Dalzell	Howard	Murphy	Wheeler
Denby	Howell, N. J.	Needham	Wiley
Dies	Hubbard, W. Va.	Nelson	Willlett
Dodds	Huff	O'Connell	Wilson, Pa.
Douglas	Hughes, W. Va.	Olcott	Wood, N. J.
Draper	Hull, Iowa	Palmer, A. M.	Woods, Iowa
Dupre	Humphrey, Wash.	Palmer, H. W.	Woodyard
Durey	James	Parsons	Young, Mich.
Dwight	Johnson, Ohio	Patterson	Young, N. Y.
Elvins	Joyce	Payne	

So the motion to dispense with private business in order on Friday was rejected.

During the roll call,

Mr. GARRETT. Mr. Speaker, I make the point of order that this roll call is not in order. I venture to call the attention of the Chair to section 2968, volume 4, of Hinds' Precedents. It reads thus:

When a Committee of the Whole rises and reports the lack of a quorum, the sitting of the committee is resumed upon the appearance of a quorum.

Now, I understand the situation to be this: The Committee of the Whole rose and reported to the House the lack of a quorum.

The SPEAKER pro tempore. The Chair thinks it is not in order to interrupt a roll call for the making of a point of order.

Mr. GARRETT. But, Mr. Speaker, the point of order that I am making is that this roll call itself is not in order.

The SPEAKER pro tempore. The Chair thinks it is too late to make that point of order after the roll call has been begun, or that it can not be entertained until after the roll is completed.

Mr. HEFLIN. It is never too late to make a point of order.

Mr. GARRETT. May I invite the attention of the Chair to that section of the Precedents? I understand the situation to be this: The Committee of the Whole rose and reported to the House the absence of a quorum. Thereupon there was a call of the House, and a quorum was ascertained to be present. Now, I make the point that the regular order, under the Precedents, was that there was nothing in order except a motion to adjourn, and that it was the duty of the Chair then immediately to declare that the committee resumed its session and that this call is not in order. I read this, Mr. Speaker:

On March 23, 1842, the Committee of the Whole House—

The SPEAKER pro tempore. The Chair thinks that it is not proper for the Chair, under the rule, to permit the roll call to be interrupted after it has begun. The Clerk will proceed.

The Clerk called the name of Mr. GILL of Maryland.

Mr. GARRETT. May I ask this, Mr. Speaker? Do I understand—

Mr. MANN. I suggest to the gentleman that he ask unanimous consent to suspend the rules, for the purpose of stating his point of order.

The SPEAKER pro tempore. The Chair declines to entertain the point of order in the midst of a roll call.

Mr. GARRETT. The Speaker does not overrule it then, but merely declines to entertain it during a roll call?

The SPEAKER pro tempore. The Chair does not pass upon it, but declines to entertain it in the midst of a roll call.

The Clerk proceeded with the calling of the roll.

Mr. GARRETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GARRETT. Does the roll call disclose the presence of a quorum?

The SPEAKER pro tempore. The Chair is informed that it does not.

Mr. MANN. Mr. Speaker, has the calling of the roll been completed?

The SPEAKER pro tempore. It has.

Mr. MANN. May I ask for the announcement of the result?

The SPEAKER pro tempore. A quorum is not yet present.

Mr. MANN. That is what I wish to ascertain. I thought, perhaps, the gentleman from Alabama would move a call of the House. If he does not, I shall move to adjourn.

Mr. UNDERWOOD. As I understand the order under which we are proceeding, a call of the House has already been ordered.

Mr. MANN. There has been no direction to bring in absentees, no direction for a warrant to be issued.

Mr. UNDERWOOD. As I understand it, we are proceeding now under the order for an automatic call of the House.

The SPEAKER pro tempore. We are.

Mr. UNDERWOOD. And the Speaker has already instructed the Sergeant at Arms to bring in absentees.

The SPEAKER pro tempore. He has.

Mr. MANN. I thought perhaps the gentleman would wish to repeat his performance, and have a warrant issued.

Mr. UNDERWOOD. I will trust the Sergeant at Arms to bring in the absentees.

Several Members appeared and voted.

The SPEAKER pro tempore. On this vote the yeas are 29 and the nays are 145, "present" 19, making in all 193 Members present—a quorum. The motion is not agreed to, and the Door-keeper will open the doors.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 21965. An act for the relief of Mary Wind French;

H. R. 25569. An act to authorize a patent to be issued to Margaret Padgett for certain public lands therein described;

H. R. 27069. An act to relinquish the title of the United States in New Madrid location and survey No. 2880;

H. R. 30571. An act permitting the building of a dam across Rock River at Lyndon, Ill.;

H. R. 31066. An act to authorize the Secretary of Commerce and Labor to purchase certain lands for lighthouse purposes;

H. R. 31166. An act to authorize the Secretary of Commerce and Labor to exchange a certain right of way;

H. R. 31353. An act for the relief of F. W. Mueller;

H. R. 31600. An act to authorize the erection upon the Crown Point Lighthouse Reservation, N. Y., of a memorial to commemorate the discovery of Lake Champlain;

H. R. 31657. An act to authorize United States marshals and their respective chief office deputies to administer certain oaths;

H. R. 31925. An act authorizing the building of a dam across the Savannah River at Cherokee Shoals;

H. R. 31926. An act permitting the building of a dam across Rock River near Byron, Ill.;

H. R. 31931. An act authorizing the Ivanhoe Furnace Corporation, of Ivanhoe, Wythe County, Va., to erect a dam across New River;

H. R. 32473. An act for the relief of the sufferers from famine in China;

H. R. 31922. An act to authorize the Virginia Iron, Coal & Coke Co. to build a dam across the New River near Foster Falls, Wythe County, Va.;

H. R. 31800. An act permitting the building of a wagon and trolley-car bridge across the St. Croix River between the States of Wisconsin and Minnesota;

H. R. 31662. An act granting five years' extension of time to Charles H. Cornell, his assigns, assignees, successors, and grantees, in which to construct a dam across the Niobrara River on the Fort Niobrara Military Reservation, and to construct electric light and power wires and telephone line and trolley or

electric railway, with telegraph and telephone lines, across said reservation;

H. R. 31056. An act to ratify a certain lease with the Seneca Nation of Indians;

H. R. 27837. An act to amend the provisions of the act of March 3, 1885, limiting the compensation of storekeepers and storekeeper-gaugers in certain cases to \$2 a day, and for other purposes;

H. R. 24123. An act for the relief of the legal representatives of William M. Wightman, deceased; and

H. R. 11798. An act to enable any State to cooperate with any other State or States or with the United States for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers.

RECESS.

Mr. UNDERWOOD. Mr. Speaker, I move that the House take a recess until to-morrow morning at 11 o'clock.

The question was taken, and the motion was agreed to; accordingly (at 9 o'clock and 25 minutes p. m.) the House took a recess until to-morrow, Saturday, February 18, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting recommendation of a credit to the accounts of Lieut. Col. I. W. Littell, United States Army (H. Doc. No. 1385); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of War, transmitting the claims of the Morse Dry Dock & Repair Co. and the John N. Robins Co. (H. Doc. No. 1386); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Acting Secretary of Commerce and Labor, transmitting a list of papers no longer needed in the business of the department (H. Doc. No. 1387); to the Committee on Disposition of Useless Papers and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for a monument at Guilford Court House (H. Doc. No. 1388); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Civil Service Commission submitting an estimate of appropriation for traveling expenses (H. Doc. No. 1389); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. DENT, from the Committee on Military Affairs, to which was referred the joint resolution of the Senate (S. J. Res 140) authorizing the Secretary of War to loan certain tents for the use of the Confederate Veterans' Reunion to be held at Little Rock, Ark., in May, 1911, reported the same without amendment, accompanied by a report (No. 2186), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MONDELL, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 32080) to provide for the leasing of coal lands in the District of Alaska, and for other purposes, reported the same with amendment, accompanied by a report (No. 2190), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HUMPHREY of Washington, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 31689) to provide American registers for the steamers *San Jose*, *Limon*, *Esparta*, *Cartago*, *Parismina*, *Heredia*, *Abangarez*, *Turrialba*, *Atenas*, *Almirante*, *Santa Marta*, *Metapan*, *Zacapa*, *Greenbrier*, *Peralta*, *La Senora*, and *Sizaola*, reported the same with amendment, accompanied by a report (No. 2187), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred sundry bills of the House, reported in lieu thereof the bill (H. R. 32822) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, accompanied by a report (No. 2182), which said bill and report were referred to the Private Calendar.

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the joint resolution of the House (H. J. Res. 291) authorizing the Secretary of War to receive for instruction at the Military Academy at West Point Mr. Melchor Batista, reported the same without amendment, accompanied by a report (No. 2184), which said resolution and report were referred to the Private Calendar.

Mr. OLCOTT, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 10313) to provide for the appointment and retirement of late Ensign John Tracey Edson as lieutenant in the United States Navy, reported the same with amendment, accompanied by a report (No. 2185), which said bill and report were referred to the Private Calendar.

Mr. ROBERTS, from the Committee on Naval Affairs, to which was referred the bill of the Senate (S. 8603) to authorize the President of the United States to place upon the retired list of the United States Navy Surg. I. W. Kite with the rank of medical inspector, reported the same without amendment, accompanied by a report (No. 2188), which said bill and report were referred to the Private Calendar.

Mr. CRAIG, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 8736) providing for the releasing of the claim of the United States Government to arpent lot No. 44, in the old city of Pensacola, Fla., reported the same without amendment, accompanied by a report (No. 2193), which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the resolution of the House (H. Res. 962) calling on the Secretary of Commerce and Labor for a copy of contract between the British Government and American Express Co., reported the same adversely, accompanied by a report (No. 2189), which said resolution and report were laid on the table.

Mr. McKINLEY of Illinois, from the Committee on Foreign Affairs, to which was referred the resolution of the House (H. Res. 977) requesting the President to furnish the House of Representatives certain information, reported the same adversely, accompanied by a report (No. 2191), which said resolution and report were laid on the table.

He also, from the same committee, to which was referred the concurrent resolution of the House (H. Con. Res. 60) for the annexation of Canada, reported the same adversely, accompanied by a report (No. 2192), which said resolution and report were laid on the table.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. LIVINGSTON (by request): A bill (H. R. 32823) to reorganize the Patent Office; to the Committee on Patents.

By Mr. WATKINS: A bill (H. R. 32824) to authorize the city of Shreveport to construct a bridge across Red River; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS: A bill (H. R. 32825) for the relief of Biento Fresquez; to the Committee on Claims.

Also, a bill (H. R. 32826) for the relief of Jose Salazar; to the Committee on Claims.

By Mr. FASSETT: A bill (H. R. 32827) granting an increase of pension to Henry G. Tuthill; to the Committee on Invalid Pensions.

By Mr. HANNA: A bill (H. R. 32828) granting an increase of pension to John Torbenson; to the Committee on Invalid Pensions.

By Mr. KELIHER: A bill (H. R. 32829) granting a pension to Daniel O'Connell; to the Committee on Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 32830) granting an increase of pension to Michael Welch; to the Committee on Invalid Pensions.

By Mr. MALBY: A bill (H. R. 32831) granting a pension to William P. West; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32832) granting an increase of pension to Leonard A. Wilson; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: A bill (H. R. 32833) for the relief of Daniel Flick; to the Committee on Military Affairs.

By Mr. SHEFFIELD: A bill (H. R. 32834) granting an increase of pension to Maria Hanley; to the Committee on Invalid Pensions.

By Mr. TALBOTT: A bill (H. R. 32835) for the relief of the heirs of Thomas J. Benson, deceased; to the Committee on War Claims.

By Mr. TAYLOR of Colorado: A bill (H. R. 32836) granting public land to the city of Canon City, Colo., for public-park purposes; to the Committee on the Public Lands.

By Mr. BYRD: A bill (H. R. 32837) for the relief of the administrators of Joseph S. Rogers, deceased; to the Committee on War Claims.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 32838) granting an increase of pension to Morton B. Chrisman; to the Committee on Invalid Pensions.

By Mr. MILLINGTON: Resolution (H. Res. 979) to compensate David J. Berger for extra services performed; to the Committee on Accounts.

By Mr. ENGLEBRIGHT: Resolution (H. Res. 980) of inquiry relative to action of Department of Agriculture against Hydro Electric Co., of California; to the Committee on the Public Lands.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANSBERRY: Petition of Association of Military Surgeons of Richmond, for Senate bill 6049, department of health; to the Committee on Agriculture.

Also, petition of Metal Trades Department, American Federation of Labor, of Washington, D. C., insisting that the battleship *New York* be built in a Government navy yard, in compliance with the law of 1910, and for eight-hour clause of naval appropriation bill; to the Committee on Naval Affairs.

Also, petition of Philadelphia Chamber of Commerce, for a parcels-post service; to the Committee on the Post Office and Post Roads.

Also, petition of business firms of Archbold, Ohio, against parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of National Metal Trades Association, for legislation in line with Article IX of findings of the anthracite coal strike commission of 1902; to the Committee on the Judiciary.

By Mr. ASHBROOK: Petition of Emma Spencer and seven other citizens of Newark, Ohio, and Philadelphia Chamber of Commerce, against increase of postage on magazines; to the Committee on the Post Office and Post Roads.

By Mr. BENNET of New York: Petition of citizens of Washington, against language used by Judge Daniel Thew Wright in passing sentence on defendant Green; to the Committee on the Judiciary.

By Mr. BURKE of Pennsylvania: Petition of Chamber of Commerce of Pittsburg, for repeal of tax on oleomargarine; to the Committee on Agriculture.

By Mr. BURLEIGH: Petition of Aroostook County Pomona Grange, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. BUTLER: Petition of citizens of Pennsylvania, for eight-hour day and for the construction of the battleship *New York* in the Brooklyn Navy Yard; to the Committee on Naval Affairs.

By Mr. CALDER: Petition of business men of New York City, against increase of postage on magazines; to the Committee on the Post Office and Post Roads.

Also, petition of Philadelphia Chamber of Commerce, for legislation to secure in all kinds of transportation a maximum of

facilities and minimum of rates; to the Committee on Interstate and Foreign Commerce.

By Mr. CARY: Communication from the Metal Trades Department, American Federation of Labor, protesting against the proposed measure to have battleships built by private contractors; to the Committee on Naval Affairs.

By Mr. COWLES: Petition of citizens of North Carolina, against bill of Representative Andrews donating 300,000 acres of land to the Archbishop of Santa Fe, N. Mex.; to the Committee on the Territories.

By Mr. CULLOP: Petition of citizens of Sullivan County, Ind., against Senate bill 404, relative to Sunday observance in the District of Columbia; to the Committee on the District of Columbia.

By Mr. DRAPER: Petition of Chamber of Commerce of Tombstone, Ariz., against congressional action changing county seat removal legislation; to the Committee on the Territories.

By Mr. FOCHT: Petition of Commandery of Pennsylvania, Military Order of Loyal Legion of the United States, for House bill 32725, for removal of remains of Maj. Gen. Hancock from Norristown, Pa., to national cemetery at Arlington; to the Committee on Appropriations.

By Mr. FOSTER of Illinois: Petition of members of the Prairie View Methodist Episcopal Church, Fairview Methodist Episcopal Church, Seventh Day Baptist Church, Farina, Ill., and Congregational Church of Olney, Ill., for House bill 23641 and Senate bill 7528; to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of Barnard & Miller, Chicago, Ill., for Canadian reciprocity and tariff board; to the Committee on Ways and Means.

Also, petition of Philadelphia Chamber of Commerce, for extension of the parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of Farnsworth & Son, of Oldtown, Ill., against the establishment of a parcels post; to the Committee on the Post Office and Post Roads.

Also, petition of A. H. Geighorn, Morris, Ill., for the Carter-Weeks bill concerning postal rates; to the Committee on the Post Office and Post Roads.

Also, petition of United Association of Plumbers and Steam Fitters, against increase of second-class postage rates; to the Committee on the Post Office and Post Roads.

Also, petition of Association of Military Surgeons, for a national department of health and for Senate bill 6049; to the Committee on the Judiciary.

Also, petition of Federal Labor Union, of Peru, Ill., against repeal of law for printing bonds, checks, and notes; to the Committee on Printing.

By Mr. GOEBEL: Petition of Price Hall Council, No. 210, Harmony Council, Addyston Council, Victor Council, and many others, Junior Order United American Mechanics, of Cincinnati, for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. GOULDEN: Petition of W. J. Thompson Co., New York City, and editors and publishers of newspapers of the Bronx Borough, New York City; to the Committee on the Post Office and Post Roads.

Also, petition of the Atlas Engraving Co., New York, and Paul Black, New York City, against increase of postage on magazines; to the Committee on the Post Office and Post Roads.

By Mr. HANNA: Petition of citizens of North Dakota, against repeal of duty on barley; to the Committee on Ways and Means.

Also, petition of residents of North Dakota on rural routes, for House bill 26791; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of North Dakota, against the Burnham parcels-post bill; to the Committee on the Post Office and Post Roads.

By Mr. HENRY of Connecticut: Petition of Washington Camp No. 14, Patriotic Order Sons of America, Hartford, Conn., for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. HIGGINS: Petition of Highland County Grange, Plainfield Grange, and Wolf Den Grange, of Connecticut, for a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. HOLLINGSWORTH: Petition of Updegraff (Ohio) Grange, No. 1427, Patrons of Husbandry, for a general parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. JAMES: Petition of citizens of Kentucky, for more stringent immigration laws; to the Committee on Immigration and Naturalization.

By Mr. KELIHER: Petition of Master Bakers' Association of Massachusetts, for Canadian reciprocity; to the Committee on Ways and Means.

By Mr. KOPP: Petition of citizens of third Mississippi congressional district, against a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. LOUD: Petition of Mrs. Fred Garritt and 23 others, Island View Grange members and two others, and E. V. Esmond and 29 others, of Hale, Mich., against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. MITCHELL: Petition of citizens of Gardner, for House bill 25825; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of State of Washington, for building of battleship *New York* in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of National Bank Cashiers' Association of Massachusetts, for legislation to improve banking laws; to the Committee on Banking and Currency.

By Mr. McMORRAN: Petition of Capac Woman's Christian Temperance Union, for congressional investigation of New Mexico's constitution to prevent liquor traffic controlling the situation; to the Committee on the Judiciary.

By Mr. MOORE of Pennsylvania: Petition of Philadelphia Chamber of Commerce, for a general parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. O'CONNELL: Petition of Lynn Board of Trade, for construction of two revenue cutters at Government navy yards; to the Committee on Naval Affairs.

By Mr. PLUMLEY: Petition of General Stark Council, Junior Order United American Mechanics, of Springfield, Vt., for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. PUJO: Petition of Will Powell and others and Joe Miller and others, of Tullerton, La., against a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of the American National Live Stock Association, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. REEDER: Petition of the American National Live Stock Association, against reciprocal tariff with Canada; to the Committee on Ways and Means.

By Mr. SMITH of Michigan: Petitions of C. Van Camper and 21 others, of Shiawassee County; D. W. Irwin and 18 others, of Osceola County; W. J. Geddes and 34 others, of Mecosta County; P. Hayes and 8 others, of Menominee County; Stewart Bowman and 18 others, of Lake County; B. A. Pitchie and 18 others, of Sanilac County; James B. Strattan and 30 others, of Delta County; Master Chinos and 39 others, of Wexford County; Albert Gentle and 16 others, of Wexford County; and Lesser M. Van Camper and 21 others, of Shiawassee County, all in the State of Michigan, for a general parcels post; to the Committee on the Post Office and Post Roads.

Also, petition of John L. Paddison and 63 others, against the Canadian reciprocity treaty; to the Committee on Ways and Means.

By Mr. SIMMONS: Petition of New York Assembly, for the construction of the battleship *New York* in the Brooklyn Navy Yard; to the Committee on Naval Affairs.

Also, petition of Grange No. 1147, Patrons of Husbandry, of Garnis, N. Y., in favor of a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. SWASEY: Petitions of Leeds Grange, Norway Grange, Crockett Grange, and Aroostook County Grange, State of Maine, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. THISTLEWOOD: Petition of citizens of Cutler, Ill., for House bill 23641; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Milk Producers' Association of Illinois, Indiana, and Wisconsin, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. TOWNSEND: Petition of citizens of Blissfield and Unionville, Mich., for the Miller-Curtis bill; to the Committee on the Judiciary.

Also, petition of citizens of Wayne County, Mich., favoring a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. WOOD of New Jersey: Petitions of J. H. Simmons, of New York City, and Printing Pressman's Union, No. 70, of Trenton, N. J., against increased postage rate on magazines; to the Committee on the Post Office and Post Roads.